
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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Author: Durazo
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Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Victim compensation*

HISTORY

Source: Crime Survivors for Safety and Justice
Californians for Safety and Justice
Youth ALIVE!

Prior Legislation: SB 993 (Skinner), Assem. Inactive File, 2022
SB 375 (Durazo), Ch. 592, Stats. 2019
SB 1232 (Bradford), Ch. 983, Stats. 2018
AB 1140 (Bonta), Ch. 569, Stats. 2015

Support: Broken by Violence; Catron Academy Learning Institute; Communities United for Restorative Youth Justice; Initiate Justice; Jireh-Shalom Foundation; Prosecutors Alliance California; Sacred Purpose; Santa Cruz Barrios Unidos; Smart Justice California; Starting Over, Inc; The Place4Grace; United Communities for Peace

Opposition: California District Attorneys Association

PURPOSE

The purpose of this bill is to 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 California Victim Compensation Board to use additional forms of evidence to verify that a qualifying crime has occurred.

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 (“the board”) to operate the California Victim Compensation Program. (Gov. Code, §§ 13950 *et. seq.*)

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 requires an application be filed in accordance with the following timelines:

- Within seven years of the date of the crime;
- Seven years after the victim attains 21 years of age; or,
- Seven 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. (Gov. Code, § 13953, subd. (a).)

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, not to exceed \$10,000;
- 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, not to exceed \$3,418, 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;
- Funeral or burial expenses, not to exceed \$12,818;
- Costs to clean the scene of the crime, not to exceed \$1,709; and,
- Costs of veterinary services, not to exceed \$10,000. (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).)

This bill deletes the requirement that reimbursement for relocation fees be determined by law enforcement to be necessary for personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim and instead requires the applicant to sign a statement attesting to the necessity of relocation.

Existing law specifies that when a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender. A victim may be required to repay the relocation payment or reimbursement to the board if the victim violates the terms set forth in this paragraph. (Gov. Code, § 13957, subd. (a)(7)(D).)

This bill deletes the above provision.

Existing law defines “victim” to mean an individual who sustains injury or death as a direct result of a crime as specified. (Gov. Code, § 13951, subd. (e).)

This bill amends the existing definition of “victim” to include that injury or death may be the result of an act or omission of another that is a crime.

Existing law defines “derivative victim” to mean an individual who sustains pecuniary loss as a result of injury or death to a victim. (Gov. Code, § 13951, subd. (e).)

This bill amends the existing definition of derivative victim to additionally require that the person did not commit the crime that caused the victim’s injury or death.

This bill provides that “victim of violent crime advocate” means a person who is employed, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of violent crimes for an agency or organization that has a documented record of providing services to victims of violent crime or provides those services under the auspices or supervision of a court or a law enforcement or prosecution agency.

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).)

This bill states that the board shall not require the submission of additional information solely to verify that the crime occurred if the board has received an acceptable form of evidence that the crime occurred. However, this paragraph shall not be construed to limit the ability of the board to contact an agency, organization, court, or individual from which a form of evidence that the board has received originates to confirm the evidence’s authenticity.

Existing law requires the board staff to determine whether an application for compensation contains all of the information required by the board. If the staff determines that an application does not contain all of the required information, the staff shall communicate that determination to the applicant with a brief statement of the additional information required. (Gov. Code, § 13952, subd. (c)(2).)

Existing law states that the applicant, within 30 calendar days of being notified that the application is incomplete, may either supply the additional information or appeal the staff’s determination to board, which shall review the application to determine whether it is complete. (Gov. Code, § 13952, subd. (c)(2).)

This bill gives the applicant 365 days of being notified that the application is incomplete to supply the additional information or appeal the staff’s determination with the board.

This bill requires the board to communicate a determination made on whether an application is complete to the applicant or the applicant’s authorized representative in the language selected by the applicant by personal delivery or by all of the following means for which the board has access to an applicant’s contact information and by which the applicant has consented to being contacted:

- Mail;
- Email;
- Text message; or,
- Personal telephone call.

Existing law makes emergency awards available to a person eligible for compensation if the board determines that such an award is necessary to avoid or mitigate substantial hardship that may result from delaying compensation until complete and final consideration of an application. (Gov. Code, § 13952.5, subd. (a).)

This bill states that if an emergency award is requested for relocation expenses or funeral and burial expenses, the board shall presume that substantial hardship would result from delaying compensation until complete and final consideration of an application unless the board has received substantial evidence to the contrary.

Existing law states that if an application for an emergency award is denied, the board shall notify the applicant in writing of the reasons for the denial. (Gov. Code, § 13952.5, subd. (e)(1).)

This bill requires the board to clearly state in bold lettering at the top and bottom of the notification of an emergency award denial that the applicant's regular application is still being processed, the notification does not constitute a denial of the application as a whole, and the applicant may still be eligible for a regular award

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).)

This bill instead provides that that board may, if the information provided to the board is insufficient to reasonably verify the application or claim by a preponderance of the evidence, 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, or any other pertinent information deemed necessary by the board.

This bill prohibits the board from seeking or requiring additional information from a law enforcement agency or another third party solely to verify that the crime occurred if the board has already received a valid form of verification authorized under this bill. However, the board is not prohibited from contacting the agency, organization, court, or individual from which a form of evidence that the board has received evidencing that the crime occurred originates to confirm the evidence's authenticity.

Existing law provides that verification information shall be returned to the board within 10 business days after a request for verification has been made by the board. Verification information shall be provided at no cost to the applicant, the board, or victim centers. (Gov. Code, § 13954, subd. (a)).

This bill states that if verification information is not returned to the board within 10 business days as required and the information the board has received to date favors approval of the

application or claim, the board shall presume the information it has received to date is accurate and proceed with approving the application or claim without further delay.

Existing law requires an applicant to cooperate with the staff of the board or the victim center in the verification of the information contained in the application and states that failure to cooperate shall be reported to the board, which, in its discretion, may reject the application solely on this ground. (Gov. Code, § 13954, subd. (b).)

This bill repeals the above provision requiring cooperation with board staff or the victim center.

Existing law states that an applicant's refusal to apply for other benefits potentially available to them from other sources, including, but not limited to, worker's compensation, state disability insurance, social security benefits, and unemployment insurance may be used to reject the application. (Gov. Code, § 13954, subd. (b)(2)(C).)

Existing law states that if the applicant threatens violence or bodily harm to a member of the board of board's staff, the application may be denied. (Gov. Code, § 13954, subd. (b)(2)(D).)

This bill specifies that the denials for the above reasons apply to claims for compensation for pecuniary losses.

Existing law requires the Department of Justice (DOJ) to furnish, upon application of the board, all information necessary to verify the eligibility of any applicant for other available benefits, to recover any restitution fine or order obligations that are owed to the Restitution Fund or to any victim of crime, or to evaluate the status of any criminal disposition. (Gov. Code, § 13954, subd. (f).)

This bill limits information provided by DOJ to the board to information necessary to recover any restitution fine or order obligations that are owed to the Restitution Fund or to any victim of crime.

Existing law states that a person shall not be eligible for compensation under the following conditions:

- An application may be denied, in whole or in part, if the board finds that denial is appropriate because of 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, as specified; or,
- An application shall be denied if the board finds that the victim or, if compensation is sought by, or on behalf of, a derivative victim, either the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. In determining whether cooperation has been reasonable, the board shall consider the victim's or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or the victim's family or the derivative victim or the derivative victim's family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of any of these factors. A victim of domestic violence shall not be determined to have failed to cooperate based on the

victim's conduct with law enforcement at the scene of the crime. (Gov. Code, § 13956, subds. (a)-(b).)

Existing law states that lack of cooperation shall also not be found solely because a victim of sexual assault, domestic violence, or human trafficking delayed reporting the qualifying crime. (Gov. Code, § 13956, subd. (b)(1).)

This bill repeals the above provisions on involvement in the crime and lack of cooperation with law enforcement.

Existing law provides that an application for a claim based on domestic violence, sexual assault, or human trafficking shall not be denied solely because a police report was not made by the victim and requires the board to adopt guidelines that allow it to consider and approve applications relying on evidence other than a police report to establish that the crime occurred. (Gov. Code, § 13956, subd. (b)(2)-(4).)

This bill provides that for all other crimes an application shall not be denied, in whole or in part:

- Solely because a police report was not made;
- Solely based on the contents of a police report unless no other evidence has been submitted to establish that the qualifying crime occurred. If the board has only received a police report as evidence that the qualifying crime occurred and the police report does not establish that the qualifying crime occurred, the board shall notify the applicant of the deficiency in the application and solicit additional information to verify the claim; or,
- Based on whether a suspect was arrested or charged with the qualifying crime.

This bill requires the board to adopt guidelines that allow it to consider and approve applications that rely on evidence other than a police report to establish that a crime has occurred, including the following forms of evidence to verify that a crime occurred:

- Medical records documenting injuries consistent with the allegation of the qualifying crime;
- A signed statement from a victim of violent crime advocate stating that the victim is seeking services related to the qualifying crime;
- A permanent restraining order or protective order issued by a court to protect or separate the victim or derivative victim from the person alleged to have committed the qualifying crime;
- A statement from a licensed medical professional, physician's assistant, nurse practitioner, or other person licensed to provide medical or mental health care documenting that the victim experienced physical, mental, or emotional injury as a result of the qualifying crime; and,
- A police report or another written or oral report from a law enforcement agency.

This bill provides that a person making a statement or report regarding a qualifying crime may consider any information or evidence they deem relevant.

This bill requires the board to post informational materials promoting victim cooperation with law enforcement agencies and criminal investigations on its internet website and make such materials available to applicants directly upon request. The board shall include these materials contact information for service providers that are available to help the victim contact and cooperate with law enforcement and information about victim rights regarding participation in an investigation or prosecution.

This bill states that the board shall not deny an application, in whole or in part, based on a lack of cooperation by a victim or derivative victim with a law enforcement agency.

Existing law authorizes the board to establish maximum rates and service limitations for reimbursement of medical and medical-related services and for mental health and counseling services. (Gov. Code, § 13957.2, subd. (a).)

This bill deletes the authority to set service limitations.

Existing law states that the board may request an independent examination and report from any provider of medical or medical-related services or psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. The victim or derivative victim shall be notified of the name of the provider who is to perform the evaluation within 30 calendar days of that determination. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. In cases where the crime involves child abuse or molestation, the provider shall have expertise in the needs of victims of child abuse or molestation, as appropriate. When a reevaluation is requested, payments shall not be discontinued prior to completion of the reevaluation. (Gov. Code, § 13957.2, subd. (b).)

This bill repeals the board's authority to request independent examinations and reports.

Existing law states that the board shall approve or deny applications, based on recommendations of the board staff, within an average of 90 calendar days and no later than 180 calendar days of acceptance by the board or victim center. (Gov. Code, § 13958.)

This bill instead requires the board to approve or deny applications within an average of 30 days and no later than 60 days of acceptance by the board or victim center.

This bill states that the 30-day and 60-day requirements shall be tolled during a period in which the board has requested information from the applicant if it has been longer than 10 days since the board first communicated the request for additional information to the applicant and the board has not yet received the requested information

Existing law provides that if the board does not meet the 90 day average standard, the board shall, thereafter, report to the Legislature, on a quarterly basis, its progress and its current average time of processing applications. These quarterly reports shall continue until the board meets the 90 day average standard for two consecutive quarters. (Gov. Code, § 13958, subd. (a).)

Existing law states that if board fails to approve or deny an individual application with 180 days of the date it is accepted, the board shall advise the applicant and the applicant's representative, in writing, of the reason for the failure to approve or deny the application. (Gov. Code, § 13958, subd. (b).)

This bill requires the board to communicate a determination made to approve or deny an application for compensation in writing to the applicant or the applicant's authorized representative in the language selected by the applicant by personal delivery or by all of the following means for which the applicant has consented to being contacted:

- Mail;
- Email; or,
- Either text message or personal phone call.

This bill requires the board to adopt guidelines governing the information to include in the board's communication to the applicant or applicant's representative regarding an approval of an application, in whole or in part, which shall include, at minimum, all of the following:

- Information about the status of each claim for coverage for each pecuniary loss for which the applicant has requested compensation to date;
- If the board requires additional information or verification from the applicant to approve an existing claim for a pecuniary loss, a request for that information from the applicant;
- A list of all of the types of pecuniary loss the board can cover and information or hyperlinks to information regarding eligibility requirements for each category of pecuniary loss; and,
- Instructions describing how the applicant can submit supplemental claims for compensation.

This bill requires the board to adopt guidelines for communicating a denial in a manner that is trauma informed and sensitive to the psychological well-being of the applicant or victim, which shall include, but not be limited to, all of the following:

- A process for clearly explaining the basis for denial;
- A process for providing applicants or victims a list of other services for which they may be eligible; and,
- A process for providing an applicant or victim information for contesting a denial or filing a petition for judicial review.

Existing law authorizes a petition for a writ of mandate for judicial review of a final decision on an application for compensation. The petition shall be filed as follows:

- Where no request for reconsideration is made, within 30 days of personal delivery or within 60 days of the mailing of the board's decision on the application for compensation;
- Where a timely request for reconsideration is filed and rejected by the board, within 30 days of personal delivery or within 60 days of the mailing notice of the rejection;
- Where a timely request for reconsideration is filed and granted by the board, or reconsideration is ordered by the board, within 30 days of personal delivery or within 60 days of the mailing of the final decision on the reconsidered application. (Gov. Code, § 13960, subd. (a).)

This bill instead provides for a deadline of 365 days for each of the different types of petitions.

COMMENTS

1. Need for This Bill

According to the author of this bill:

SB 655 would reduce processing timelines and streamline the claims process, allow survivors more time to provide additional information or to appeal, make emergency awards more accessible, and remove redundant documentation requirements that slow the process down.

The bill would also strengthen communication between VCB and applicants, by ensuring that decisions and requests from the Board are communicated to applicants clearly by multiple methods and in the language of the applicant's choosing.

SB 655 would also make access to compensation more equitable by allowing access to compensation regardless of perceived victim cooperativeness, and by limiting denials based on subjective assessments of victim behavior.

Finally, SB 655 would expand existing policy that allows survivors of some types of crime to use other forms of reliable documentation than a police report as evidence – which has served many California survivors for years – to apply to all survivors of violent crime.

Overall, this bill would remove barriers that prevent many crime survivors from receiving assistance, reduce red tape in the application process, and address the core issues that have driven racial disparities in program access.

2. History and Purpose of California Victim Compensation Program

The victim compensation program was created in 1965, the first such program in the country. The program 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 CalVCB 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/>>.)

The victim compensation program is the payor of last resort, which means applicants are compensated for covered expenses that have not been and will not be compensated from any other source. The types of expenses that may be reimbursed include:

- Medical, medical-related, dental.
- Outpatient mental health treatment or counseling.
- Funeral and burial.

- Wage or income loss up to five years following the date of the crime due to the victim's disability resulting from the qualifying crime. If the victim is permanently disabled, wage or income loss may be extended.
- Support loss for legal dependents of a deceased or injured victim.
- Up to 30 days wage loss for the parent or legal guardian of a minor victim who is hospitalized or dies as a direct result of a crime.
- Job retraining.
- Medically necessary renovation or retrofitting of a home or vehicle for a person permanently disabled as a result of the crime.
- Home security installation or improvements
- In-patient psychiatric hospitalization costs.
- Relocation.
- Crime scene clean-up.
- Veterinary fees, or replacement costs for a guide, signal or service dog.
- Roundtrip mileage reimbursement to medical, dental or mental health appointments.
- Minors who suffer emotional injuries from witnessing a violent crime may be eligible for mental health counseling. To qualify, the minor witness must have been in close proximity to the crime.

Reimbursement is limited to the actual amount paid out-of-pocket or bills accrued by the victim. The maximum amount reimburse a victim or derivative victim is \$35,000, except this amount may be increased to \$70,000 if federal funds are available. Additionally, there are specified limits for certain expenses.

Last year, AB 160 (Committee on Budget), Chapter 771, Statutes of 2022, raised the maximum reimbursable amount, from \$70,000 to \$100,000, 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.

3. Current Requirements for Compensation and Changes Made by this Bill

The CalVCP reimburses eligible victims for specified expenses such as counseling and medical fees. Eligible persons are victims and derivative victims where 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 violent crimes.

Verification and Cooperation with Board

Under existing law, the application for compensation shall be verified under penalty of perjury of the individual seeking compensation and the board may require submission of additional information supporting the application that is reasonably necessary to verify the application and determine eligibility. (Gov. Code, § 13952, subd. (b)-(c).) If the staff determines that an application does not contain all of the required information, the staff shall communicate that determination to the applicant and the applicant will be given 30 days of being notified to provide additional information or appeal the determination to the board. (Gov. Code, § 13952, subd. (c)(2).)

This bill prohibits the board from requiring the submission of additional information solely to verify that the crime occurred if the board has received an acceptable form of evidence that the

crime occurred as authorized under this bill. However, this prohibition is not to be construed to limit the ability of the board to contact an agency, organization, court, or individual from which a form of evidence that the board has received originates to confirm the evidence's authenticity. The bill also extends the timeframe for an applicant to supply the requested information or appeal to the board from 30 days of notice to 365 days.

Under existing law, 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. (Gov. Code, § 13954, subd. (a).) Any verification information requested by the board must be returned within 10 days of the request. (*Ibid.*)

This bill states instead that the board may verify such information only if the information provided to the board is insufficient to reasonably verify the application or claim by a preponderance of the evidence. The board would not be authorized to seek or require additional information from a law enforcement agency or another third party solely to verify that the crime occurred if the board has already received a valid for a verification, as authorized under this bill, however the board would not be limited in contacting the agency, organization, court, or individual from which a form of evidence evidencing the crime occurred originates to confirm the evidence's authenticity. If verification information is not returned to the board within 10 business days and the information the board has received to date favors approval of the application or claim, the board shall presume the information it has received to date is accurate and proceed with approving the application or claim.

Existing law also requires an applicant to cooperate with the staff of the board or with the victim center in verification of the information contained in the application and states that failure to cooperate shall be reported to the board and may be a basis to reject the application. (Gov. Code, § 13954, subd. (b).) An applicant can be found to have failed to cooperate with the board if: (1) the applicant failed to provide information that they have or could reasonably obtain after being requested to do so; (2) the applicant provided, or caused another to provide, false information; (3) the applicant refuses to apply for other benefits potentially available from other sources; or (4) the applicant threatened violence or bodily harm to a member of the board or staff. (*Ibid.*)

This bill deletes failure to cooperate with the staff of the board by failing to provide information or providing false information as bases for rejection of the application. Refusing to apply for other benefits or threatening a member of the board or staff would authorize rejection of a claim for pecuniary losses only.

Cooperation with Law Enforcement and Involvement in Events Leading to the Crime

Under existing law, the board may deny an application based on a finding that the victim was involved in the events leading to the crime or the victim's failure to reasonably cooperate with law enforcement. (Gov. Code, § 13956, subs. (a)-(b).) Existing law provides that "[i]n determining whether cooperation has been reasonable, the board shall consider the victim or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, and any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or victim's family or derivative victim or derivative victim's family, and giving due consideration

to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of these factors.” (Gov. Code, § 13956, subd. (b)(1).)

The proponents of this bill state that these disqualifying factors unjustly exclude victims based on subjective perceptions about the victim and lead to inequitable rates of denials, including disproportionate denials for Black victims and families. According to background information provided by the author, the Alameda Grand Jury released a report in 2021 found that black applicants and family members were more than twice as likely as white applicants to have their applications denied for lack of cooperation with law enforcement (9.8% of Black applicants compared to 4.7% of white applicants) and almost twice as likely as white applicants based on involvements in events leading to the crime (7.1% of Black applicants compared to 3.9% of white applicants). The report also found that there was little or no opportunity for applicants to provide relevant information, or to address disagreements or misunderstandings between applicants and law enforcement. Additionally, while existing law requires mitigating factors to be considered when reaching conclusions about a victim or family member's cooperation - such as a person's age, physical condition, psychological state, cultural or linguistic barriers, or fear of retaliation - the report found it was unlikely that a police report would reflect on those considerations. (Alameda County Grand Jury (2021). *Final report: Racial Inequities in Police Responses to Victims' Needs*. <<http://grandjury.acgov.org/grandjury-assets/docs/2020-2021/Racial%20Disparities.pdf>>; Zaykowski, H. et. al. (2019).)

This bill deletes these disqualifying factors, however states that the board shall post informational materials promoting victim cooperation with law enforcement agencies and criminal investigations on its internet website and make such materials available to applicants directly upon request. The board shall also include in these materials contact information for service providers that are available to help the victim contact and cooperate with law enforcement and information about victim rights regarding participation in an investigation or prosecution.

Police Report

Existing law states that an applicant for a claim based on domestic violence, sexual assault, or human trafficking shall not be denied solely because a police report was not made by the victim and requires the board to adopt guidelines that allow the board to consider and approve applications for these crimes relying upon evidence other than a police report to establish that a domestic violence crime has occurred. Such factors evidencing that the crime occurred may include, but are not limited to, medical records documenting injuries consistent with the allegations and mental health records. (Gov. Code, § 13956, subd. (b)(2)-(4).)

This bill provides that applications for compensation for all other crimes shall also not be denied, in whole or in part, because a police report was not made or based solely on the contents of a police report unless no other evidence has been submitted to establish that the qualifying crime occurred. Additionally, the bill provides that an application shall not be denied, in whole or in part, based on whether a suspect was arrested or charged with the qualifying crime. This bill also requires the board to adopt guidelines to allow the board to consider and approve applications that rely on evidence other than a police report to establish that the crime occurred.

Other Ineligibility Factors

Existing law makes ineligible for compensation a person who is convicted of a violent felony until the person has been released from a correctional institution. Such a person may apply for compensation but the award may not be considered until the person has been released from incarceration. (Gov. Code, § 13956, subd. (c).)

This bill deletes this ineligibility factor.

Relocation Fees

Existing law authorizes a cash payment or reimbursement not to exceed \$3,418 to a victim for expenses incurred in relocating, 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. (Gov. Code, § 13957, subd. (a)(7)(A).) Additionally, if the relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not allow the offender on the premises or shall agree to seek a restraining order against the offender. A violation of these terms may result in the victim being required to reimburse the board. (Gov. Code, § 13957, subd. (a)(7)(D).)

This bill deletes the requirement that law enforcement must determine that the relocation is necessary for the victim's personal safety or that a mental health treatment provider must determine that it is for the emotional well-being of the victim, and instead authorizes the victim to sign a statement supporting the need. The bill also deletes the provision that a victim of domestic violence or sexual assault must agree to additional terms and may be required to reimburse the board if found to be in violation of those terms.

Application Timelines

Under existing law, the board is required to approve or deny an application within an average of 90 calendar days and no longer than 180 days of acceptance by the board or victim center. (Gov. Code, § 13958.) If the board fails to meet the 90 day average, the board is required to report to the Legislature on a quarterly basis, its progress and current average time of processing applications until it meets the 90-day average standard for two consecutive quarters. (Gov. Code, § 13958, subd. (a).)

This bill shortens the timeline for the board to approve or deny applications to an average of 30 days, as opposed to 90 days, and no longer than 60 days, as opposed to 180 days. According to recent information provided by the board, their average time to approve or deny applications is 32 days. As noted above, this bill provides an applicant a longer period of time to respond to a request for more information required by the board, from 30 days to 365 days. Allowing victims a longer period of time to may create delays in approving or denying applications, which could lead to an overall increase in the overall length of time the board approves or denies applications.

This bill also extends the timeline for a person to file a petition for judicial review of a final decision from within 30 days of personal delivery of notice or within 60 days of mailing of the notice to 365 days of personal delivery or mailing of the notice.

Emergency Award

Existing law authorizes the board to grant an emergency award to an applicant if the board determines that such an award is necessary to avoid or mitigate substantial hardship that may result from delaying compensation until complete and final consideration of an application. Disbursement of such awards shall be made within 30 days of the application. (Gov. Code, § 13952.2.)

This bill requires when an application for an emergency award is denied, the board shall clearly state in bold lettering at the top and bottom of the notification of an emergency award denial that the applicant's regular application is still being processed, the notification does not constitute a denial of the application as a whole, and the applicant may still be eligible for a regular award. Additionally, this bill provides that if an emergency award is requested for relocation expenses or funeral and burial expenses, the board shall presume that substantial hardship would result from delaying compensation until complete and final consideration of an application unless the board has received substantial evidence to the contrary.

Communication with Applicant

This bill specifies ways that the board shall communicate with the applicant, including methods of contact (mail, email, text message, or personal phone call) and also requires the communication to be more clear, provide additional pertinent information, and be in a manner that is trauma informed and sensitive to the psychological well-being of the applicant or victim.

4. Condition of the Restitution Fund

The Restitution Fund, which funds the Victim Compensation Program reimbursements, has been operating under a structural deficiency for a number of years. In 2015, the Legislative Analyst's Office reported the Restitution Fund was depleting and would eventually face insolvency. Although revenue has remained consistent, expenditures have outpaced revenues since FY 2015-16. The Governor's 2021-22 budget proposed \$33 million dollars in one-time General Fund monies to backfill declining fine and fee revenues in the Restitution Fund, and \$39.5 million annually afterwards. This amount will allow the board to continue operating at its current resource level. Furthermore, the Budget Act allows for additional backfill if a determination is made that revenues are insufficient to support the board. (Department of Finance, *California State Budget –2023-24* at 90 <<https://ebudget.ca.gov/2023-24/pdf/BudgetSummary/CriminalJustice.pdf>> [as of Feb. 8, 2023].) In addition, the 2022 Budget prioritized changes to the victim compensation program and the elimination of the restitution fine, if a determination is made in the spring of 2024 that the General Fund over the multiyear forecast is available to support this ongoing augmentation. (*Ibid.*)

5. Argument in Support

According to Smart Justice California:

Research shows that eligibility restrictions written into statute contribute to inequitable rates of assistance for our state's most vulnerable populations, and disproportionate denials for Black victims and families. These restrictions include limitations on allowable forms of documentation survivors can use to verify eligibility, denials based on assessments of victim cooperativeness with officials, and denials based on judgments that victims are blameworthy for the crimes that happened to them.

Those survivors who do qualify must navigate overwhelming paperwork and long wait times. On average, it takes the CalVCB [California Victim Compensation Board] approximately 10 months to disburse benefits, during which survivors could be without essential resources. In fact, most survivors who have their initial application approved never actually receive any benefits.

SB 655 will reform the outdated qualifications and exclusions which serve to lock many victims of violent crime out of the help they need. SB 655 will also reduce processing timelines and streamline the claims process, allow survivors more time to provide additional information or to appeal, make emergency awards more accessible, and remove redundant documentation requirements that slow the process down. The bill would also strengthen communication between CalVCB and applicants, by ensuring that decisions and requests from the Board are communicated to applicants clearly by multiple methods and in the language of the applicant's choosing.

6. Argument in Opposition

According to California District Attorneys Association:

The amendment to Government Code Section 13954 eliminates the requirement that an applicant for payment cooperate with Board staff to verify information in the application, and eliminates the requirement that the failure to cooperate be reported to the Board. It also deletes the Board's discretion to deny compensation based on the failure to cooperate.

The amendment to Government Code Section 13956 repeals the Board's ability to deny compensation if it finds that denial is appropriate because of the nature of the applicant's involvement in the events leading to the crime. It also repeals provisions requiring the denial of compensation if the Board finds that the applicant failed to cooperate reasonably with a law enforcement agency in the apprehension or conviction of the offender. Moreover, the amendment permits convicted offenders, including violent felons, to receive compensation while they are still incarcerated.

The Restitution Fund has been operating with a deficit for a number of years. It is bad policy to further deplete resources for deserving crime victims who played no role in the crime committed against them, and who cooperated with law enforcement and with the Board.

-- END --