
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

SB 655 (Durazo) - Victim compensation

Version: February 16, 2023

Urgency: No

Hearing Date: May 1, 2023

Policy Vote: PUB. S. 4 - 0

Mandate: No

Consultant: Matthew Fleming

Bill Summary: SB 655 would make various changes to the California Victim Compensation Program (VCP) 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.

Fiscal Impact: The California Victim Compensation Board (CalVCB) reports estimated ongoing annual costs ranging from \$17.54 million to \$24.84 million in order to comply with the requirements of the bill, including eliminating limits on reimbursements for mental health sessions, expanding eligibility criteria and relocation reimbursements, and in staff workload in order to process applications (Restitution Fund, General Fund).

Background: The VCP 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. In order to backfill the Restitution Fund, there is a \$39.5 million ongoing annual allocation from the state General Fund.

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. This bill would make numerous changes to the operation of CalVCB.

Proposed Law:

- Amends the existing definition of “victim” from an individual who sustains injury or death as a direct result of a crime, to include that injury or death may be the result of an act or omission of another that is a crime.
- 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.
- 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.
- Provides that CalVCB 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.
- Extends the time period for an applicant to complete an application from 30 days of being notified the application is incomplete to 365 days.
- Requires the CalVCB 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 as specified.
- Provides that if an emergency award is requested for relocation expenses or funeral and burial expenses, CalVCB 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.

- Requires CalVCB 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.
- Provides that CalVCB 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.
- Prohibits CalVCB 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.
- Provides that if verification information is not returned to CalVCB 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.
- Repeals a provision requiring an applicant to cooperate with board staff or the victim center.
- Limits information provided by DOJ to CalVCB to information necessary to recover any restitution fine or order obligations that are owed to the Restitution Fund or to any victim of crime.
- Repeals provisions that allow CalVCB to deny a claim based on an applicant's involvement in the crime and lack of cooperation with law enforcement.
- Provides that for crimes other than domestic violence, sexual assault, or human trafficking – which may not be denied solely because a police report was not made by the victim under existing law – 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, or based on whether a suspect was arrested or charged with the qualifying crime.
- Requires CalVCB 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, as specified.
- Requires CalVCB 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.

- Provides that CalVCB 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.
- Requires CalVCB 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 as specified.
- Requires CalVCB 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, as specified.
- Provides for a deadline of 365 days to petition for a writ of mandate for judicial review of a final decision on an application for compensation, as specified.

Related Legislation:

- SB 530 (Bradford) would make changes to compensation for a person who has been exonerated including removing the requirement the person be imprisoned to present a claim; remove the requirement the person needs to prove an injury; extends the deadline for filing a claim; and provide for compensation for erroneously having to register as a sex offender. SB 530 is pending in this committee.
- SB 838 (Menjivar) 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.

Staff Comments: CalVCB further reports that SB 655 makes numerous changes to how CalVCB operates all at once, leaving many unknown factors in calculating the fiscal impact. Their cost estimate is based on assumptions about the applications and bill requests that may be submitted in the future. CalVCB estimates that removing the dollar and session limits on counseling reimbursement could increase total payments by 25 percent, therefore additional mental health counseling payments would total \$4.31 million per year. CalVCB notes that this bill would remove three of the primary reasons for denial of a CalVCB application: involvement in the events leading to the crime, lack of cooperation with the Board, and lack of cooperation with law enforcement. An average of 2,906 applications per year are denied for one or more of these four reasons. The average payment to a claimant whose application is approved, including applicants who never submit a bill for reimbursement, is \$1,191. If 2,906 claimants each received \$1,191 in compensation, the average annual increase in payments would be \$3.46 million.

Currently, an average of 2,467 claimants per year receive reimbursement for relocation expenses. If these changes increased approved claims by 25 percent, 617 additional claimants would receive reimbursement. At an average of \$2,905 per relocation claim, incorporating the proposed benefit limit increase, 617 additional relocation payments would total \$1.79 million per year. Currently, an average of 5,035 claims per year involve the death of the direct victim as a result of the crime. This bill would allow

derivative victims living with the direct victim to receive reimbursement of relocation costs. If 25 percent of these derivative victims received reimbursement due to this change, it would result in an additional 1,259 claims per year. At an average of \$2,905 per relocation claim, 1,259 additional relocation payments would total \$3.66 million per year. These two changes to relocation reimbursement are estimated to increase payments by a total of \$5.45 million per year.

CalVCB estimates that implementing the changes would require additional Victim Compensation Division staff to include two Staff Service Managers I, two Associate Governmental Program Analysts, 20 Staff Service Analysts, and two Office Technicians. The Information Technology Division would require additional staff to include one Information Technology Supervisor II and two Information Technology Specialists I in order to implement the statutory changes and support additional claim volume. The Administration Division would require three additional Associate Governmental Program Analysts in order to implement the statutory changes and support additional program staff. The Legal Division would require two additional Associate Governmental Program Analysts in order to implement the statutory changes and support additional claim volume. The total cost of the Victim Compensation, Information Technology, Administration and Legal Division positions is \$4.32 million per year.

The Restitution Fund is the source of CalVCB reimbursements. It operated under a structural deficiency for a number of years. Although revenue has remained consistent, expenditures have outpaced revenues since FY 2015-16. The Governor's 2023-24 budget proposes \$39.5 million ongoing to backfill declining fine and fee revenues in the Restitution Fund and allow the California Victim Compensation Board to continue operating at its current funding level.

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