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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

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**Bill No:** SB 381                      **Hearing Date:** March 21, 2017  
**Author:** De León  
**Version:** February 14, 2017  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** SC

**Subject:** *Victims of Crime: Indemnification: Applications*

### HISTORY

Prior Legislation: SB 556 (De León), of the 2015-16 Legislative Session,  
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  
AB 2809 (Leno), Ch. 587, Stats. 2008  
AB 2869 (Leno), Ch. 582, Stats. 2006  
AB 2413 (Spitzer), Ch. 571, Stats. 2006  
AB 105 (Cohn), Ch. 539, Stats. 2006  
SB 972 (Poochigian), Ch. 238, Stats. 2005  
SB 631 (McPherson), Ch. 223, Stats. 2004  
SB 1423 (Chesbro), Ch. 1141, Stats. 2002  
AB 2898 (Bowler), Ch. 1077, Stats. 1996

**Support:** Crime Victims United of California; Los Angeles County Professional Peace Officers Association

**Opposition:** None known

### PURPOSE

*The purpose of this bill is to clarify the time that the California Victim Compensation Board uses in processing applications and to make specified data related to processing of applications readily available to the public.*

*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* 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* provides that the board shall approve or deny applications within an average of 90 calendar days and no later than 180 calendar days of acceptance of the application by the board or victim center.

- The board shall report quarterly to the Legislature until it has met the time requirements for two consecutive quarters.
- If the board does not approve or deny a claim within 180 days of the date it is accepted, the board shall advise the applicant in writing of the reasons for the failure to approve or deny the application. (Gov. Code, § 13958.)

*This bill* requires the board to annually post on its website the following:

- Progress and current average time of processing applications;
- The number of approved and denied applications; and
- The number of incomplete applications received.

*This bill* defines “time of processing applications” as the period of time that begins with the date the board receives an application and ends when a determination to approve or deny the application has been made and notice of that determination is sent to the applicant.

## COMMENTS

### 1. Need for This Bill

According to the author of this bill:

Through the California Victim Compensation Program (CalVCP), California has been helping victims by covering the cost of bills and expenses resulting from certain violent crimes. Many times, these expenses include medical treatment, mental health services, and lost income. A person seeking assistance must first submit an application to the program to determine eligibility. To curb processing delays and help ensure that victims receive compensation as quickly as possible, the Legislature required CalVCP to approve or deny applications within an average of 90 day and to report to the Legislature whenever the 90-day-average standard was not being met. Shortly after this requirement went into effect, however, CalVCP changed its method of calculating the application processing time by starting the clock only when an application received is completed, leaving the time an application is first received, but not fully filled out, outside of the official processing time. Consequently, minor deficiencies in applications, such as leaving a box unchecked about if the victim intends to file a lawsuit, have led to some applications being held up for extended lengths of time but not being reflected in CalVCP’s average processing time calculation. This method is not a true reflection of how long it takes the program to process applications and may be masking issues of lengthy processing times that hinder crime victims in their efforts towards rehabilitation and moving on with their lives because they get stuck with paying bills out of pocket or otherwise foregoing treatment or services.

SB 381 will help ensure that crime victims receive assistance in a timely manner by clarifying the start and end times that CalVCP uses in processing applications to determine program eligibility, and it will make processing data readily available to the public.

## 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 website <<http://www.vcgc.ca.gov/board/>> (as of Mar. 8, 2017).)

## 3. Audit of CalVCP

In 2008, the Bureau of State Audits conducted a review of the CalVCP. (*Victim Compensation and Government Claims Board: It Has Begun Improving the Victim Compensation Program, but More Remains to Be Done*, (Dec. 2008), <<http://www.bsa.ca.gov/pdfs/reports/2008-113.pdf>>.) One of the areas the bureau considered was how long it took the board to process applications. The bureau concluded that, at times, applications were not processed in a timely manner:

State law related to eligibility determinations for the program requires the board to approve or deny applications, based on the recommendation of board staff, within an average of 90 calendar days, and no later than 180 calendar days after the acceptance date for an individual application. For the 49 applications we reviewed, the board's average processing time was 76 days, which is well within the statutory average. However, the board did not make a determination within 180 days in two instances. We also noted various instances in which the board did not demonstrate that it approved or denied the applications as promptly as it could have after receiving the information necessary to make the determination. (*Id.* at pp. 30-31.)

For the 49 applications we reviewed from fiscal years 2003–04 through 2007–08, we found that the board's average processing time was 76 days, which is well within the 90-day average required under state law. However, we noted that in 16 of the 49 applications we reviewed, the board took more than 90 days from acceptance to notify the applicant of its recommended decision to approve or deny the application. Although taking more than 90 days to approve or deny an individual application is not a violation of state law, any unnecessary delays in processing contribute to crime victims waiting longer than necessary to be reimbursed for out-of-pocket expenses. Delays may also cause providers to become frustrated and stop participating in the program, reducing services available to crime victims and their families. (*Id.* at p. 31.)

The bureau discussed the board's process as follows:

The board considers the date of acceptance to be the date that it determines it has received an application that is 'complete' rather than the date that it receives an application. State regulations describe a complete application as including, among other things, information requested from the applicant that allows board staff to confirm that the applicant is qualified and a crime report or other documentation

necessary to corroborate that a qualifying crime occurred. Our legal counsel advised us that the board's interpretation does not conflict with any of the statutes governing the processing of applications. (*Id.* at p. 32.)

This bill would specify that the application processing time begins when the board first receives an application and ends when notice of the determination to approve or deny the claim is sent to the applicant.

#### **4. Recent Changes to CalVCP**

The CalVCP underwent various changes after AB 1140 (Bonta), Chapter 569, Statutes of 2015, was enacted. The bill required the application to be written in several languages other than English, and once an applicant chooses his or her preferred language, any subsequent communications must be in the chosen language. The bill provided more guidance on how to deal with applications involving victims of domestic violence, rape, and human trafficking so that these victims will not have their applications denied for failing to provide information at the scene of the crime or failing to report the crime immediately. The bill provided ways to mitigate or overcome the disqualifying factor of involvement in a crime by providing factors that the board should consider. The bill also added new expenses that may be covered and changed the disqualifying factor of a victim who is on parole or probation so that only a person who is a registered sex offender or convicted of a violent felony and currently on parole or probation may be denied.

This committee has been informed by the board that in addition to these changes, the board has also started dealing with incomplete applications in a more time-efficient way. Rather than sending back applications for being incomplete, the board has started calling applicants to complete the form. According to the board, this has reduced the time that an application is considered incomplete and the number of applicants who fail to resend in their applications. Additionally, the board has made available on its website training videos for providers on how to fill out forms in a way to avoid inadvertently disqualifying a victim. Based on these changes and the changes enacted by AB 1140, the board has informed this committee that denials of applications are down to approximately 10 percent of applications.

#### **5. Related Legislation**

AB 1061 (Gloria) revises various provisions related to the CalVCP including extending the time to file an application for victims of certain types of crimes and expanding the circumstances that would allow psychiatric, psychological, and mental health counseling to be reimbursed and its application to derivative victims.