
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 1187 **Hearing Date:** June 20, 2023
Author: Quirk-Silva
Version: April 10, 2023
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *California Victim Compensation Board: reimbursement for personal or technological safety devices or services*

HISTORY

Source: Los Angeles County District Attorney

Prior Legislation: SB 877 (Eggman), Ch. 707, Stats. 2022
AB 1629 (Bonta) Ch. 535, Stats. 2014
AB 2809 (Leno), Ch. 587, Stats. 2008

Support: Prosecutors Alliance of California; California Catholic Conference

Opposition: None known

Assembly Floor Vote: 65 - 0

PURPOSE

The purpose of this bill is to 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.

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 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 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).)

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).)

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).)

Existing law provides that a person is eligible for compensation, if as a direct result of the crime, they sustained a physical injury or an emotional injury and a threat of physical injury. (Gov. Code, § 13955, subd. (f).)

Existing law makes eligible for compensation a victim or derivative victim who, as a direct result of the crime, sustained any of the following:

- Physical injury, as provided;
- Emotional injury and a threat of physical injury;
- Emotional injury where the crime was a violation of human trafficking, rape child abuse, lewd and lascivious acts with a child, continuous sexual abuse of a minor, cyber harassment, coercing a minor to appear in child pornography, statutory rape, child abduction, and deprivation of child custody;
- Child abandonment or neglect, where the emotional injury was a result of conduct other than failure to pay child support, and criminal charges were filed;
- Statutory rape and criminal charges were filed;
- Child abduction and criminal charges were filed;
- Injury to, or death of, a guide, signal, or service dog; or,
- Emotional injury to a victim who is a minor incurred as a direct result of the nonconsensual distribution of pictures or video of sexual conduct in which the minor appears. (Gov. Code, § 13955, subd. (f).)

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).)

This bill authorizes the board to reimburse the amount of counseling expenses incurred by the victim or derivative victim provided by a Certified Child Life Specialist, certified by the Association of Child Life Professionals, who provides counseling under the supervision of a licensed provider, subject to the board's approval and subject to the limitations and restrictions the board may impose.

COMMENTS

1. Need for This Bill

According to the author of this bill:

Children who witness and/or are bereaved by family violence and other violent acts should receive referrals for support and therapeutic grief-focused interventions from highly skilled and trained professionals, which includes Certified Child Life Specialist (CCLS). CCLS are trained professionals who provides care and interventions that are family-centered, evidence-based, trauma-informed, and developmentally-psychologically-appropriate. California has a shortage of a wide range professionals including mental health, behavioral health, counselors, social workers and psychologists. Including services provided by a CCLS under the supervision of a licensed provider, that are reimbursable by the California Victims of Crime Program will increase access to vital services to these children and their families.

2. History and Purpose of the California Victims 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. In order to be eligible, the crime must either occur in California or the victim must be a resident of California or a member of the military stationed in California, and the victim sustained physical or emotional injury as a direct result of the crime. The program reimburses eligible victims and derivative victims for many crime-related expenses, such as counseling and medical fees. Funding for the program 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 June 8, 2023].)

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. Certified Child Life Specialists

The Association of Child Life Professionals administers an examination-based Child Life Certification program for Certified Child Life Specialists (CCLSs). According to its website, the Association of Child Life Professionals is a nonprofit organization founded in 1982. The Association of Child Life Professionals represents trained professionals with expertise in helping infants, children, youth, and families cope with the stress and uncertainty of illness, injury, and treatment. Its members include CCLSs, child life assistants, university educators and students, hospital administrators and staff, teachers, therapeutic recreation specialists, and professionals in related fields. (Association of Child Life Professionals, *About ACLP* <<https://www.childlife.org/about-aclp/mission-values>> [as of June 8, 2023].)

According to the Association of Child Life Professionals (ACLPs), the CCLS credential is the “exclusive child life certification and is issued by the Child Life Certification Commission, a subsidiary of the [Association of Child Life Professionals]... The CCLS credentialing program is a rigorous, examination-based professional certification designed to promote the proficiency of child life professionals by identifying a body of knowledge, establishing a level of comprehension, and verifying mastery of critical child life concepts.” (Association of Child Life Professionals, *Certification* <<https://www.childlife.org/certification>> [as of June 8, 2023].) To be eligible for certification, a person must have a bachelor’s degree in any field of study, successfully complete 10 college/university courses, including but not limited to a “Child Life course taught by a CCLS”, complete a minimum of 600 hours of a child life clinical internship under the direct supervision of a CCLS, and complete the Association of Child Life Professional’s 150 multiple-choice question examination. (*Ibid.*)

Generally, regulations require that mental health providers must be licensed in California to be eligible to provide services to victim compensation claimants. (Cal. Code Regs., tit. 2 § 649.29) The following mental health providers licensed in California are eligible to provide services to claimants pursuant to Title 2 Regulations: licensed psychiatrists that have medical license and have completed their residency in psychiatry, or are certified in field of psychiatry with the American Board of Medical Specialists; licensed psychologists; licensed clinical social workers; marriage family therapists; psychologists registered with Board of Psychology; licensed professional clinical counselors; associate professional clinical counselors; associate social workers; associate marriage and family therapists; peer counselors, only for rape crisis counseling; psychiatric mental health nurses; and, clinical nurse specialists. (*Ibid.*)

An exception to the rule is peer counseling provided by rape crisis centers, only in the cases of rape. Peer counselors are required to be a provider of mental health counseling services, to complete a specialized course in rape crisis counseling skills development, participate in continuing education in rape crisis counseling skills development, and provide rape crisis counseling in consultation with a mental health practitioner licensed within the State of California. (Pen. Code, §§ 13837, 13838.)

CCLSs are not licensed by the State of California to provide mental health services. Accordingly, this bill would only allow the Board to reimburse the expense of counseling services provided by a CCLS who is certified by the ACLP and provides counseling under the supervision of a licensed provider, subject to approval by the board and any limitations set by the board.

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 the Los Angeles County District Attorney, the sponsor of this bill:

Most professionals are not specifically trained for the difficult conversations that arise and are necessary when supporting children and family members dealing with trauma and death. Multi-agency professionals who respond to these cases, may find it very difficult, uncomfortable, overwhelming, or at a loss for words or actions in the moment. The education of many professionals is specific to their career choice and does not generally include supporting bereaved, traumatized, and brokenhearted children and family members. When children enter the system, whether it be Child Protective Services, Law Enforcement, Dependency or Criminal Court, the need for grief counseling may be overlooked due to the many other pending challenges and competing priorities at the time.

Unfortunately today the California Victim Compensation Board does not include a CCLS on the list of authorized mental health treatment providers and therefore valuable services provided by a CCLS is not reimbursable from the Victims of Crime Program.

AB 1187 addresses this gap in existing law by authorizing a CCLS certified by the Association of Child Life Professionals who is under the supervision of a licensed mental health provider to seek reimbursement for their services subject to the limits set by the California Victims of Crime Program. Nothing in AB 1187 expands the number of types of victims eligible who qualify for services from the Victims of Crime Program, it merely allows a CCLS to seek reimbursement for services provided to otherwise eligible victims.

A CCLS is required to have a Bachelor's degree, with many possessing a Master's degree while meeting specific, rigorous academic requirements, such as coursework and a core foundation in child development, family systems, therapeutic play, grief, loss, and coping. In addition, clinical requirements including a 600-hour internship and the passing of the Child Life Professional Certification exam, establishes a level of comprehension and verifies a master of critical Child Life knowledge (Association of Child Life Professionals, 2021.)

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