
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 900 **Hearing Date:** May 15, 2018
Author: Gonzalez Fletcher
Version: May 8, 2018
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Crime Victims: The California Victim Compensation Board*

HISTORY

Source: Bet Tzedek Legal Services
California State Controller's Office
Coalition to Abolish Slavery and Trafficking

Prior Legislation: AB 1061 (Gloria), 2017, held in Assembly Appropriations
AB 2160 (Bonta), 2016, held in Assembly Appropriations
AB 1754 (Waldron), 2016, held in Senate Appropriations
AB 1140 (Bonta), Ch. 569, Stats. 2015

Support: Asian Americans Advancing Justice – Los Angeles; Association for Los Angeles Deputy Sheriffs; Association of Deputy District Attorneys; California Catholic Conference; California Code Enforcement Officers; California College and University Police Chiefs Association; California District Attorneys Association; California Narcotic Officers Association; Dignity Health; Jewish Public Affairs Committee; Justice At Last; Los Angeles County Probation Officers Union AFSCME Local 685; Los Angeles County Professional Peace Officers Union; Los Angeles Police Protective League; National Council of Jewish Women – Los Angeles; Religious of the Sacred Heart Mary – Western American Province; Religious Sisters of Charity; Riverside Sheriffs' Association; Temple Isaiah – CAST Initiative; Worksafe

Opposition: None known

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill is to authorize the California Victims Compensation Board (board) to provide compensation equal to loss of income or support to human trafficking victims, as specified.

Existing law establishes the 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 states that, except as specified, a person shall be eligible for compensation when all of the following requirements are met:

- The person for whom compensation is being sought any of the following:
 - A victim;
 - A derivative victim; and,
 - A person who is entitled to reimbursement for funeral, burial or crime scene clean-up expenses pursuant to specified sections of the Government Code.
- Either of the following conditions is met:
 - The crime occurred in California, but only when the board determines that there are federal funds available to the state for the compensation of crime victims; or
 - Whether or not the crime occurred in California, the victim was any of the following:
 - A California resident;
 - A member of the military stationed in California; or,
 - A family member living with a member of the military stationed in California.
- If compensation is being sought for derivative victim, the derivative victim is a resident of California or any other state who is any of the following:
 - At the time of the crimes was the victim's parent, grandparent, sibling, spouse, child or grandchild;
 - At the time of the crime was living in the victim's household;
 - At the time of the crime was a person who had previously lived in the victim's house for a period of not less than two years in a relationship substantially similar to a previously listed relationship;
 - Another family member of the victim who witnessed the crime, including, but not limited to, the victim's fiancé or fiancée; or,
 - Is the primary caretaker of a minor victim, but was not the primary caretaker at the time of the crime.
- And other specified requirements. (Gov. Code, § 13955.)

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;
- 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 up to \$2,000 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; and,
- Funeral or burial expenses. (Gov. Code, §§ 13957, subd. (a) & 13957.5, subd. (a).)

Existing law authorizes the board, subject to specified limitations, authorize 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 or derivative victim's injury or the victim's death. (Gov. Code, § 13957, subd. (a)(3).)

Existing law generally limits the total award to or on behalf of each victim or derivative victim to \$70,000. (Gov. Code, §§ 13957, subd. (b), & 13957.5, subd. (b).)

Existing law provides that a person who deprives or violates another person's personal liberty with the intent to obtain forced labor or services or who deprives or violates another person's personal liberty for the purpose of prostitution or sexual exploitation is guilty of human trafficking. (Pen. Code, § 236.1.)

This bill authorizes the board to compensate a victim of human trafficking in an amount equal to loss of income or support that the victim incurs as a direct result of the victim's deprivation of liberty during the crime if the victim has not been and will not be compensated from any other source.

This bill specifies that compensation shall be based upon the value of the victim's labor as guaranteed under California law at the time that the services were performed for the number of hours that the services were performed, for up to 40 hours per week, but shall not exceed \$10,000 per year that the services were performed, for a maximum of two years.

This bill states that if the victim is a minor at the time of application, the board shall distribute payment under the provisions of this bill when the minor reaches 18 years of age.

This bill requires the board, on or before July 1, 2019, to adopt guidelines that allow it to rely on evidence other than official employment documentation in considering and approving an application for that compensation.

This bill specifies that the evidence may include any reliable corroborating information approved by the board, including, but not limited to, a statement under penalty of perjury from the applicant, a human trafficking caseworker, a licensed attorney, or a witness to the circumstances of the crime.

COMMENTS

1. Need for this Bill

According to the author of this bill:

Regardless of what sort of work victims are forced to perform, they are economically exploited by their traffickers in this form of modern day slavery and generally receive little to no pay.

Once victims have escaped from their situations, they must confront the realities of needing housing; basic daily necessities like food, treatment for medical and mental health issues; and other support.

Currently, victims of human trafficking are able to have expenses such as medical and mental health services or relocation costs covered by the California Victim Compensation Program (VCP). However, most trafficking victims are unable to receive compensation for lost income as a result of their being trafficked during the time of the crime. This is because compensation by the VCP for loss of income is limited to those with formal documentation of their previous employment (such as a W2). Human trafficking victims are in a unique situation where they are working, or rather being commercially exploited, during the crime rather than before, and likely do not have official documentation of employment or promised wages. The way current regulations are written simply do not acknowledge this kind of circumstance for compensation, and thus deny victims of human trafficking an important resource in putting their lives back together.

AB 900 will help vulnerable victims of human trafficking rebuild their lives by compensating them for the loss of income that they endured.

2. CalVCP

The CalVCP provides compensation for victims of violent crime, or more specifically those who have been physically injured or threatened with injury. It reimburses eligible victims for many crime-related expenses, such as medical treatment, mental health services, funeral expenses, and

home security. Funding for the board comes from restitution fines and penalty assessments paid by criminal offenders, as well as from federal matching funds. (See board Website <<http://www.vcgcb.ca.gov/board>>.)

3. Compensation for Loss of Income

While the board is authorized to pay for loss of income, in the usual case, this lost income comes into play after the commission of the crime. Thus, for example, the board compensates a victim for unpaid time off work after the crime due to recovery from injuries, for doctor's or counseling appointments, or to attend court to assist in the prosecution of the case. (See Compensation Benefit Guide <<http://vcgcb.ca.gov/docs/forms/victims/CalVCPBenefitReferenceGuide.pdf>>.)

However, a person who suffers loss of income by virtue of the commission of the crime is not in the same situation. While the crime is being committed, the lost income is more akin to theft because wages have been stolen. The board currently does not reimburse losses resulting from a theft. Reimbursement for the value of the stolen property is covered by direct victim restitution, which is paid by the perpetrator of the crime.

This bill specifies that a victim of human trafficking may be compensated for lost income the victim incurs as a direct result of the victim's deprivation of liberty during the crime if the victim has not been and will not be compensated from any other source. Thus, if the victim is being compensated, or will be compensated, through another source such as restitution paid by the perpetrator, the victim would not be eligible for additional compensation from the CalVCP.

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