
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 556 **Hearing Date:** April 28, 2015
Author: De León
Version: April 6, 2015
Urgency: No **Fiscal:** Yes
Consultant: JM

Subject: *Victims of Crime: Indemnification: Applications*

HISTORY

Source: Californian's for Safety and Justice

Prior Legislation: 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: Unknown

Opposition: None known

PURPOSE

The purpose of this bill is to require the victims compensation and Government Claims Board (the "board") to 1) annually post on its website progress and current average time of processing applications, the number of incomplete applications received and the number of applications approved and denied; and 2) define "time processing applications" as the period of time that begins with the date the board receives an application and ends when a decision to approve or deny the application has been made and notice sent to the applicant.

Existing law establishes the Victims Compensation and Government Claims Board (VCGCB or 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 VCGCB 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 from "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 advises the applicant in writing of the reasons for the failure to rule on 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 incomplete applications received; and
- The number of approved and denied applications.

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

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state’s ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its “ROCA” policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as “of February 11, 2015, 112,993 inmates were housed in the State’s 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity.”(Defendants’ February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;

- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Bill

According to the author:

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. For various reasons, however, some applications get held up in the process for extended lengths of time, leaving many eligible victims stuck with paying bills out of pocket or otherwise unable to receive treatment or services.

To curb delays, starting in 2003 the Legislature required that CalVCP approve or deny applications within an average of 90 day, but no later than 180 days, and required the program to report back to the Legislature whenever the 90-day-average standard was not being met. In 2004, the board overseeing CalVCP changed the method of calculating the processing time by starting the period only when it accepts a completed application and not including the length of time an application was submitted as incomplete. The current method used by CalVCP is not a true reflection of how long it takes the program to process applications and may be masking a problem of lengthy processing times that hinders crime victims in their efforts in rehabilitation and moving on with their lives.

2. Purpose and History of the Victims of Crime Program (VCP)

The victims' compensation program was created in 1965, the first such program in the country. VCGCB provides compensation for victims of violent crime. It reimburses eligible victims for many crime-related expenses. Funding for the board comes from restitution fines and penalty assessments paid by criminal offenders, as well as federal matching funds.

The other core function of the board is to review claims against the state and request payment of claims by the Legislature in annual legislation. A person must present a claim for damages against the state to the board before filing a lawsuit.

3. Audit of the VCP

The Bureau of State Audit (BSA) report in 2008 included the following highlights:

- From fiscal years 2001-02 through 2004-05, program compensation payments decreased from \$123.9 million to \$61.6 million — a 50 percent decline. Despite the significant decline in payments, the costs to support the program increased.
- Administrative costs make up a significant portion of the Restitution Fund disbursements — ranging from 26 percent to 42 percent annually.
- The program did not always process applications and bills as promptly or efficiently as it could have. Board staff took longer than 180 days to process applications in two instances out of 49, and longer than 90 days to pay bills for 23 of 77 paid bills.
- The board did not adequately investigate alternative sources of funding for victim reimbursement, such as insurance and public aid.
- The program's numerous problems with the transition to a new application and bill processing system led to a reported increase in complaints regarding delays in processing applications and bills.
- Some payments in CaRES appeared to be erroneous. Although board staff provided explanations for the erroneous payments, the fact that they were unaware of these items indicated an absence of controls that would prevent erroneous payments.
- The board lacks the necessary system documentation for CaRES.
- There are no benchmarks, performance measures, or formal written procedures for workload management.

In 2010, BSA found that the program had partially corrected five of the problems noted in the audit and corrected five others. The BSA urged the board to continue correcting the problems noted in the report. For example:

- The board reduced administrative costs, but processing times for claims had increased.
- The board increased collections, but it had not determined whether outreach programs had been successful and satisfaction with the program had increased.
- The board implemented better training program for employees who examined claims submitted by crime victims.
- The board developed an inventory monitoring system and set performance benchmarks. The monitoring should improve identification and understanding of eligibility requirements.
- Board training does include an emphasis on alternative funding sources.
- The board did complete a chapter on appeals of denials in its manual.
- The board did improve its use of the CaRES computer system. However, claims were still more quickly processed in the local agencies with which the board contracts.

It appears that the BSA has not issued a progress report or update on the program since 2010.

4. Legislative Analyst's Report

As noted in the author's statement, the Legislative Analyst issued a report on the board. LAO did recommend major changes to the entire program. At this point, a bill has not been introduced to implement the LAO recommendations. It does appear that changes made in this bill to the existing operation of the program could be integrated into any reorganization of the board and its functions.

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