

**Senate Bill No. 1423**

\_\_\_\_\_

Passed the Senate August 30, 2002

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

Passed the Assembly August 26, 2002

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2002, at \_\_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend the heading of Part 4 (commencing with Section 13900) of Division 3 of Title 2 of, to add Section 13974.2 to, to add Chapter 5 (commencing with Section 13950) to, to add a heading as Chapter 5.5 to, to repeal Sections 13955.5, 13968, 13969, 13969.2, 13969.5, and 13969.7 of, to repeal the heading of Article 2 (commencing with Section 13970) of Chapter 5 of, to repeal Article 1 (commencing with Section 13959) of Chapter 5 of, and to repeal the heading of Chapter 5 (commencing with Section 13959) of, Part 4 of Division 3 of Title 2 of, the Government Code, and to add Sections 1202.42 and 1202.43 to the Penal Code, relating to victims of crime, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1423, Chesbro. Victims of crime: compensation.

(1) Existing law provides for the indemnification of victims of specified types of crimes by the California Victim Compensation and Government Claims Board, subject to specified criteria for, among other things, submission and verification of applications, eligibility for emergency awards and compensation for specified services, procedures for hearings with respect to denial of awards, and publicization of the program by the board. Various provisions authorizing compensation for losses incurred for specified mental health counseling services or as a result of specified types of crimes, and specified treatment of applications by, or on behalf of, minors and victims of domestic violence, are repealed as of January 1, 2004. Payment is made under these provisions from the Restitution Fund, which is continuously appropriated to the board for these purposes.

This bill would recodify and recast these provisions, and would revise various criteria for the application and verification processes, the scope of compensation for emergency awards, procedures for hearings, and provisions relating to publicizing the program. It would expand the scope of mental health counseling available to derivative victims, and would indefinitely extend provisions authorizing compensation for losses incurred for specified mental health counseling services or as a result of



specified types of crimes, and specified treatment of applications by, or on behalf of, minors and victims of domestic violence. By expanding the scope of services for which continuously appropriated funds are available, and by indefinitely extending the duration of provisions authorizing certain uses of those continuously appropriated funds, this bill would make an appropriation.

(2) This bill would incorporate additional changes to existing sections of the victims of crime program provisions proposed by AB 2462, AB 2542, and AB 2729, to be operative only upon the occurrence of specified conditions.

(3) This bill would make various technical, conforming changes.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. The heading of Part 4 (commencing with Section 13900) of Division 3 of Title 2 of the Government Code is amended to read:

PART 4. CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

SEC. 2. Chapter 5 (commencing with Section 13950) is added to Part 4 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 5. INDEMNIFICATION OF VICTIMS OF CRIME

Article 1. General Provisions

13950. (a) 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.

(b) This chapter shall govern the procedure by which crime victims may obtain compensation from the Restitution Fund.

(c) Any reference in statute or regulations to Article 1 (commencing with Section 13959) of Chapter 5, as it read on December 31, 2002, shall be construed to refer to this chapter.



13951. As used in this chapter, the following definitions shall apply:

(a) “Board” means the California Victim Compensation and Government Claims Board.

(b) (1) “Crime” means a crime or public offense, wherever it may take place, that would constitute a misdemeanor or a felony if the crime had been committed in California by a competent adult.

(2) “Crime” includes an act of terrorism, as defined in Section 2331 of Title 18 of the United States Code, committed against a resident of the state, whether or not the act occurs within the state.

(c) “Derivative victim” means an individual who sustains pecuniary loss as a result of injury or death to a victim.

(d) “Law enforcement” means every district attorney, municipal police department, sheriff’s department, district attorney’s office, county probation department, and social services agency, the Department of Justice, the Department of Corrections, the Department of the Youth Authority, the Department of the California Highway Patrol, the police department of any campus of the University of California, California State University, or community college, and every agency of the State of California expressly authorized by statute to investigate or prosecute law violators.

(e) “Pecuniary loss” means an economic loss or expense resulting from an injury or death to a victim of crime that has not been and will not be reimbursed from any other source.

(f) “Peer counseling” means counseling offered by a provider of mental health counseling services who has completed a specialized course in rape crisis counseling skills development, participates in continuing education in rape crisis counseling skills development, and provides rape crisis counseling within the State of California.

(g) “Victim” means an individual who sustains injury or death as a direct result of a crime as specified in subdivision (e) of Section 13955.

(h) “Victim center” means a victim and witness assistance center that receives funds pursuant to Section 13835.2 of the Penal Code.



Article 2. Applications for Compensation

13952. (a) An application for compensation shall be filed with the board in the manner determined by the board.

(b) (1) The application for compensation shall be verified under penalty of perjury by the individual who is seeking compensation, who may be the victim or derivative victim, or an individual seeking reimbursement for burial, funeral, or crime scene cleanup expenses pursuant to subdivision (i) of Section 13957. If the individual seeking compensation is a minor or is incompetent, the application shall be verified under penalty of perjury or on information and belief by the parent with legal custody, guardian, conservator, or relative caregiver of the victim or derivative victim for whom the application is made. However, if a minor seeks compensation only for expenses for medical, medical related, psychiatric, psychological, or other mental health counseling related services and the minor is authorized by statute to consent to those services, the minor may verify the application for compensation under penalty of perjury.

(2) For purposes of this subdivision, “relative caregiver” means a relative as defined in subdivision (i) of Section 6550 of the Family Code, who assumed primary responsibility for the child while the child was in the relative’s care and control, and who is not a biological or adoptive parent.

(c) (1) The board may require submission of additional information supporting the application that is reasonably necessary to verify the application and determine eligibility for compensation.

(2) The staff of the board shall determine whether an application for compensation contains all of the information required by the board. If the staff determines that an application does not contain all of the required information, the staff shall communicate that determination to the applicant with a brief statement of the additional information required. The applicant, within 30 calendar days of being notified that the application is incomplete, may either supply the additional information or appeal the staff’s determination to the board, which shall review the application to determine whether it is complete.

13952.5. (a) An emergency award shall be available to a person eligible for compensation pursuant to this chapter 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.

(b) The board shall establish the method for requesting an emergency award, which may include, but need not be limited to, requiring submission of the regular application as provided for in Section 13952.

(c) (1) The board may grant an emergency award based solely on the application of the victim or derivative victim. The board may refuse to grant an emergency award where it has reason to believe that the applicant will not be eligible for compensation under this chapter.

(2) By mutual agreement between the staff of the board and the applicant or the applicant's representative, the staff of the board may take additional 10-day periods to verify the emergency award claim and make payment.

(3) The board may delegate authority to designated staff persons and designated agencies, including, but not limited to, district attorneys, probation departments, victim centers, and other victim service providers approved by the board and under contract with the board, who shall use guidelines established by the board, to grant and disburse emergency awards.

(d) Disbursements of funds for emergency awards shall be made within 30 calendar days of application.

(e) (1) If an application for an emergency award is denied, the board shall notify the applicant in writing of the reasons for the denial.

(2) An applicant for an emergency award shall not be entitled to a hearing before the board to contest a denial of an emergency award. However, denial of an emergency award shall not prevent further consideration of the application for a regular award and shall not affect the applicant's right to a hearing pursuant to Section 13959 if staff recommends denial of a regular award.

(f) (1) If upon final disposition of the regular application, it is found that the applicant is not eligible for compensation from the board, the applicant shall reimburse the board for the emergency award pursuant to an agreed-upon repayment schedule.

(2) If upon a final disposition of the application, the board grants compensation to the applicant, the amount of the emergency



award shall be deducted from the final award of compensation. If the amount of the compensation is less than the amount of the emergency award, the excess amount shall be treated as an overpayment pursuant to Section 13965.

(3) “Final disposition,” for the purposes of this section, shall mean the final decision of the board with respect to the victim’s or derivative victim’s application, before any action for judicial review is instituted.

(g) The amount of an emergency award shall be dependent upon the immediate needs of the victim or derivative victim subject to rates and limitations established by the board.

13953. (a) An application for compensation shall be filed within one year of the date of the crime, one year after the victim attains 18 years of age, or one year 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.

(b) The board may for good cause grant an extension of the time period in subdivision (a). In making this determination, the board may consider any relevant factors including, but not limited to, all of the following:

(1) A recommendation from the prosecuting attorney regarding the victim’s or derivative victim’s cooperation with law enforcement and the prosecuting attorney in the apprehension and prosecution of the person charged with the crime.

(2) Whether particular events occurring during the prosecution or in the punishment of the person convicted of the crime have resulted in the victim or derivative victim incurring additional pecuniary loss.

(3) Whether the nature of the crime is such that a delayed reporting of the crime is reasonably excusable.

(c) The period prescribed in this section for filing an application by or on behalf of a derivative victim shall be tolled when the board accepts the application filed by a victim of the same qualifying crime.

13954. (a) The board shall 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, and any other pertinent information deemed necessary by



the board. Verification information shall be returned to the board within 10 business days after a request for verification has been made by the board. Verification information shall be provided at no cost to the applicant, the board, or victim centers. When requesting verification information, the board shall certify that a signed authorization by the applicant is retained in the applicant's file and that this certification constitutes actual authorization for the release of information, notwithstanding any other provision of law. If requested by a physician or mental health provider, the board shall provide a copy of the signed authorization for the release of information.

(b) The victim and the applicant, if other than the victim, shall cooperate with the staff of the board or the victim center in the verification of the information contained in the application. Failure to cooperate shall be reported to the board, which, in its discretion, may reject the application solely on this ground.

(c) The board may contract with victim centers to provide verification of applications processed by the centers pursuant to conditions stated in subdivision (a). The board and its staff shall cooperate with the Office of Criminal Justice Planning and victim centers in conducting training sessions for center personnel and shall cooperate in the development of standardized verification procedures to be used by the victim centers in the state. The board and its staff shall cooperate with victim centers in disseminating standardized board policies and findings as they relate to the centers.

(d) Notwithstanding Section 827 of the Welfare and Institutions Code or any other provision of law, every law enforcement and social service agency in the state shall provide to the board or to victim centers that have contracts with the board pursuant to subdivision (c), upon request, a copy of a petition filed in a juvenile court proceeding, reports of the probation officer, any other document made available to the probation officer or to the judge, referee, or other hearing officer, a complete copy of the report regarding the incident, and any supplemental reports involving the crime, public offense, or incident giving rise to a claim, for the specific purpose of the submission of a claim or the determination of eligibility to submit a claim filed pursuant to this chapter. The board and victim centers receiving records pursuant to this subdivision may not disclose a document that personally



identifies a minor to anyone other than the minor who is so identified, his or her custodial parent or guardian, the attorneys for those parties, and any other persons that may be designated by court order. Any information received pursuant to this section shall be received in confidence for the limited purpose for which it was provided and may not be further disseminated. A violation of this subdivision is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

(e) The law enforcement agency supplying information pursuant to this section may withhold the names of witnesses or informants from the board, if the release of those names would be detrimental to the parties or to an investigation in progress.

(f) Notwithstanding any other provision of law, every state agency, upon receipt of a copy of a release signed in accordance with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) by the applicant or other authorized representative, shall provide to the board or victim center the information necessary to complete the verification of an application filed pursuant to this chapter.

(g) The Department of Justice shall furnish, upon application of the board, all information necessary to verify the eligibility of any applicant for benefits pursuant to subdivision (d) of Section 13956, to recover any restitution fine or order obligations that are owed to the Restitution Fund or to any victim of crime, or to evaluate the status of any criminal disposition.

(h) A privilege is not waived under Section 912 of the Evidence Code by an applicant consenting to disclosure of an otherwise privileged communication if that disclosure is deemed necessary by the board for verification of the application.

(i) Any verification conducted pursuant to this section shall be subject to the time limits specified in Section 13958.

### Article 3. Eligibility for Compensation

13955. Except as provided in Section 13956, a person shall be eligible for compensation when all of the following requirements are met:

(a) The person for whom compensation is being sought is any of the following:



- (1) A victim.
- (2) A derivative victim.
- (3) A person who is entitled to reimbursement for funeral, burial, or crime scene cleanup expenses pursuant to subdivision (i) of Section 13957.
  - (b) Either of the following conditions is met:
    - (1) The crime occurred within the State of California, whether or not the victim is a resident of the State of California. This paragraph shall apply only during those time periods during which the board determines that federal funds are available to the State of California for the compensation of victims of crime.
    - (2) Whether or not the crime occurred within the State of California, the victim was any of the following:
      - (A) A resident of the State of California.
      - (B) A member of the military stationed in California.
      - (C) A family member living with a member of the military stationed in California.
    - (c) If compensation is being sought for a derivative victim, the derivative victim is a resident of California, or resident of another state, who is any of the following:
      - (1) At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.
      - (2) At the time of the crime was living in the household of the victim.
      - (3) At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in subparagraph (1).
      - (4) Is another family member of the victim, including, but not limited to, the victim's fiancé or fiancée, and who witnessed the crime.
      - (5) Is the primary caretaker of a minor victim, but was not the primary caretaker at the time of the crime.
    - (d) The application is timely pursuant to Section 13953.
    - (e)
      - (1) Except as provided in paragraph (2), the injury or death was a direct result of a crime.
      - (2) Notwithstanding paragraph (1), no act involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death constitutes a crime for the purposes of this



chapter, except when the injury or death from such an act was any of the following:

(A) Intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(B) Caused by a driver who fails to stop at the scene of an accident in violation of Section 20001 of the Vehicle Code.

(C) Caused by a person who is under the influence of any alcoholic beverage or drug.

(D) Caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(E) Caused by a person who commits vehicular manslaughter in violation of subdivision (c) of Section 192 or Section 192.5 of the Penal Code.

(f) As a direct result of the crime, the victim or derivative victim sustained one or more of the following:

(1) Physical injury. The board may presume a child who has been the witness of a crime of domestic violence has sustained physical injury.

(2) Emotional injury and a threat of physical injury.

(3) Emotional injury, where the crime was a violation of any of the following provisions:

(A) Section 261, 262, 271, 273a, 273d, 285, 286, 288, 288a, 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the Penal Code.

(B) Section 270 of the Penal Code, where the emotional injury was a result of conduct other than a failure to pay child support, and criminal charges were filed.

(C) Section 261.5 of the Penal Code, and criminal charges were filed.

(D) Section 278 or 278.5 of the Penal Code, where the deprivation of custody as described in those sections has endured for 30 calendar days or more. For purposes of this paragraph, the child, and not the nonoffending parent or other caretaker, shall be deemed the victim.

(g) The injury or death has resulted or may result in pecuniary loss within the scope of compensation pursuant to Sections 13957 to 13957.9, inclusive.

13955.5. (a) Notwithstanding the residency requirement of subdivision (c) of Section 13955, a nonresident of the United



States who meets the other requirements of that subdivision shall be deemed to be a “derivative victim” for purposes of this chapter and may be reimbursed for outpatient mental health counseling when that mental health counseling is necessary as a direct result of a crime that occurred in this state, in the amounts set forth in this chapter.

(b) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

13956. Notwithstanding Section 13955, a person shall not be eligible for compensation under the following conditions:

(a) An application shall be denied if the board finds that the victim or, where compensation is sought by or on behalf of a derivative victim, either the victim or derivative victim, knowingly and willingly participated in the commission of the crime that resulted in the pecuniary loss for which compensation is being sought pursuant to this chapter. However, this subdivision shall not apply if the injury or death occurred as a direct result of a crime committed in violation of Section 261, 262, or 273.5 of, or a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of, the Penal Code.

(b) (1) An application shall be denied if the board finds that the victim or, where compensation is sought by, or on behalf of, a derivative victim, either the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. However, in determining whether cooperation has been reasonable, the board shall consider the victim’s or derivative victim’s age, physical condition, and psychological state, cultural or linguistic barriers, any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or the victim’s family or the derivative victim or the derivative victim’s family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of any of these factors.

(2) An application for a claim based on domestic violence may not be denied solely because no police report was made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on



domestic violence relying upon evidence other than a police report to establish that a domestic violence crime has occurred. Factors evidencing that a domestic violence crime has occurred may include, but are not limited to, medical records documenting injuries consistent with allegations of domestic violence, mental health records, or the fact that the victim has obtained a temporary or permanent restraining order, or all of these.

(c) An application for compensation may be denied, in whole or in part, if the board finds that denial is appropriate because of the nature of the victim's or other applicant's involvement in the events leading to the crime or the involvement of the persons whose injury or death gives rise to the application. In the case of a minor, the board shall consider the minor's age, physical condition, and psychological state, as well as any compelling health and safety concerns, in determining whether the minor's application should be denied pursuant to this section. The application of a derivative victim of domestic violence under the age of 18 years may not be denied on the basis of the denial of the victim's application under this subdivision.

(d) (1) Notwithstanding Section 13955, no person who is convicted of a felony may be granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, if any. In no case shall compensation be granted to an applicant pursuant to this chapter during any period of time the applicant is held in a correctional institution.

(2) A person who has been convicted of a felony may apply for compensation pursuant to this chapter at any time, but the award of that compensation may not be considered until the applicant meets the requirements for compensation set forth in paragraph (1).

(3) Applications of victims who are not felons shall receive priority in the award of compensation over an application submitted by a felon who has met the requirements for compensation set forth in paragraph (1).



## Article 4. Scope of Compensation

13957. (a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient 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 as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars (\$10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars (\$10,000) for not more than two derivative victims.

(B) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed three thousand dollars (\$3,000):

(i) A derivative victim not eligible for reimbursement pursuant to subparagraph (A), provided that mental health counseling of a



derivative victim described in paragraph (5) of subdivision (c) of Section 13955, shall be reimbursed only if that counseling is necessary for the treatment of the victim.

(ii) A victim of a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of the Penal Code. A derivative victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not be eligible for reimbursement of mental health counseling expenses. The total award to or on behalf of a victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code may not exceed three thousand dollars (\$3,000) for mental health counseling expenses only.

(C) The board may reimburse a victim or derivative victim for outpatient mental health counseling in excess of that authorized by subparagraphs (A) or (B) or for inpatient psychiatric, psychological, or other mental health counseling if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.

(D) Expenses for psychiatric, psychological, or other mental health counseling related services may be reimbursed only if the services were provided by either of the following individuals:

(i) A person who would have been authorized to provide those services pursuant to the provisions of former Article 1 (commencing with Section 13959) as it read on January 1, 2002.

(ii) A person who is licensed by the state to provide those services, or who is properly supervised by a person who is so licensed, subject to the board's approval and subject to the limitations and restrictions the board may impose.

(3) Reimburse the expenses of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(4) Subject to the limitations set forth in Section 13957.5, 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. If the victim or derivative victim requests that the board give priority to reimbursement of loss of income or support, the board may not pay medical expenses, or mental health counseling expenses, except upon the request of the victim or derivative victim or after determining that payment of these expenses will not



decrease the funds available for payment of loss of income or support.

(5) Authorize a cash payment to or on behalf of the victim for job retraining or similar employment-oriented services.

(6) Reimburse the expense for installing or increasing residential security, not to exceed one thousand dollars (\$1,000), with respect to a crime that occurred in the victim's residence, upon verification by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. Installing or increasing residential security may include, but need not be limited to, both of the following:

(A) Home security device or system.

(B) Replacing or increasing the number of locks.

(7) Reimburse the expense of renovating or retrofitting a victim's residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by a victim upon verification that the expense is medically necessary for a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total.

(8) Authorize a cash payment or reimbursement not to exceed two thousand dollars (\$2,000) to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. When a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender. The cash payment or reimbursement made under this subdivision shall only be awarded once to any victim, except that the board may, under compelling circumstances, award a second cash payment or reimbursement to the same victim if both of the following conditions are met:

(A) The crime occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(B) The crime does not involve the same offender.



(9) When a victim dies as a result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay any of the following expenses:

(A) The medical expenses incurred as a direct result of the crime in an amount not to exceed the rates or limitations established by the board.

(B) When the crime occurs in a residence, the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars (\$1,000). Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Health Services as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.

(C) The funeral and burial expenses incurred as a direct result of the crime, not to exceed seven thousand five hundred dollars (\$7,500).

(b) The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars (\$35,000), except that this amount may be increased to seventy thousand dollars (\$70,000) if federal funds for that increase are available.

13957.2. (a) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related services and for mental health and counseling services. The adoption, amendment, and repeal of these service limitations and maximum rates shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1). An informational copy of the service limitations and maximum rates shall be filed with the Secretary of State upon adoption by the board. A provider who accepts payment from the program for a service shall accept the program's rates as payment in full and shall not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the board for that service. To ensure service limitations that are uniform and appropriate to the levels of treatment required by the victim or derivative victim, the board may review all claims for these services as necessary to ensure their medical necessity.

(b) The board may request an independent examination and report from any provider of medical or medical-related services or



psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. The victim or derivative victim shall be notified of the name of the provider who is to perform the evaluation within 30 calendar days of that determination. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. In cases where the crime involves child abuse or molestation, the provider shall have expertise in the needs of victims of child abuse or molestation, as appropriate. When a reevaluation is requested, payments shall not be discontinued prior to completion of the reevaluation.

(c) Reimbursement for any medical or medical-related services shall, if the application has been approved, be paid by the board within an average of 90 days from receipt of the claim for payment. Payments to a medical or mental health provider may not be discontinued prior to completion of any reevaluation. Whether or not a reevaluation is obtained, if the board determines that payments to a provider will be discontinued, the board shall notify the provider of their discontinuance within 30 calendar days of its determination.

13957.5. (a) In authorizing compensation for loss of income and support pursuant to paragraph (4) of subdivision (a) of Section 13957, the board may take any of the following actions:

(1) Compensate the victim for loss of income directly resulting from the injury, except that loss of income may not be paid by the board for more than five years following the crime, unless the victim is disabled as defined in Section 416(i) of Title 42 of the United States Code, as a direct result of the injury.

(2) Compensate an adult derivative victim for loss of income, subject to all of the following:

(A) The derivative victim is the parent or legal guardian of a victim, who at the time of the crime was under the age of 18 years and is hospitalized as a direct result of the crime.

(B) The minor victim's treating physician certifies in writing that the presence of the victim's parent or legal guardian at the hospital is necessary for the treatment of the victim.

(C) Reimbursement for loss of income under this paragraph may not exceed the total value of the income that would have been earned by the adult derivative victim during a 30-day period.



(3) Compensate an adult derivative victim for loss of income, subject to all of the following:

(A) The derivative victim is the parent or legal guardian of a victim who at the time of the crime was under the age of 18 years.

(B) The victim died as a direct result of the crime.

(C) The board shall pay for loss of income under this paragraph for not more than 30 days from the date of the victim's death.

(4) Compensate a derivative victim who was legally dependent on the victim at the time of the crime for the loss of support incurred by that person as a direct result of the crime, subject to both of the following:

(A) Loss of support shall be paid by the board for income lost by an adult for a period up to, but not more than, five years following the date of the crime.

(B) Loss of support shall not be paid by the board on behalf of a minor for a period beyond the child's attaining the age of 18 years.

(b) The total amount payable to all derivative victims pursuant to this section as the result of one crime may not exceed seventy thousand dollars (\$70,000).

13957.7. (a) No reimbursement may be made for any expense that is submitted more than three years after it is incurred by the victim or derivative victim. However, reimbursement may be made for an expense submitted more than three years after the date it is incurred if the victim or derivative victim has affirmed the debt and is liable for the debt at the time the expense is submitted for reimbursement, or has paid the expense as a direct result of a crime for which a timely application has been filed.

(b) Compensation made pursuant to this chapter may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of compensation according to the applicant's need, subject to the maximum limits provided in this chapter.

(c) (1) The board may authorize direct payment to a provider of services that are reimbursable pursuant to this chapter and may make those payments prior to verification. However, the board may not, without good cause, authorize a direct payment to a provider over the objection of the victim or derivative victim.

(2) Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services shall, if the



application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment.

(d) Payments for peer counseling services provided by a rape crisis center may not exceed fifteen dollars (\$15) for each hour of services provided. Those services shall be limited to in-person counseling for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(e) The board shall develop procedures to ensure that a victim is using compensation for job retraining or relocation only for its intended purposes. The procedures may include, but need not be limited to, requiring copies of receipts, agreements, or other documents as requested, or developing a method for direct payment.

(f) Compensation granted pursuant to this chapter shall not disqualify an otherwise eligible applicant from participation in any other public assistance program.

(g) The board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars (\$500), whichever is less, for each victim and each derivative victim. An attorney receiving fees from another source may waive the right to receive fees under this subdivision. Payments under this subdivision shall be in addition to any amount authorized or ordered under subdivision (b) of Section 13960. An attorney may not charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this chapter except as awarded under this chapter.

(h) A private nonprofit agency shall be reimbursed for its services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services, except that this reimbursement may not exceed the maximum reimbursement rates set by the board and may be made only to the extent that the victim otherwise qualifies for compensation under this chapter and that other reimbursement or direct subsidies are not available to serve the victim.

13957.9. (a) Notwithstanding Section 13954, the board shall develop a simplified and expedited procedure for paying claims of a qualified provider of mental health services.



(b) A simplified and expedited procedure for paying claims specified in subdivision (a) shall include all of the following:

(1) An agreement by the provider to subject its claims to audit procedures established by the board and to request payment only for qualified services.

(2) An agreement by the board to pay claims on a regular and timely basis to a qualified provider for services without requiring further documentation beyond that required to initially qualify the claim.

(3) Additional methods of simplifying the claims process as agreed upon between the board and the qualified provider.

(c) Simplified and expedited procedures for mental health services may be instituted when both of the following conditions are met:

(1) The board has determined that the crime has occurred and that the victim qualifies for compensation pursuant to this chapter.

(2) Services to the victim or derivative victim, or both, are being provided by a qualified provider.

(d) A nonprofit agency may apply to the board for a determination that the nonprofit agency is a qualified provider for purposes of this section. The board shall approve or reject an application from a qualified provider for participation in an agreement pursuant to this section within 90 days of receipt of a complete application as required by the board.

(e) An agreement made pursuant to this section shall not be deemed to be a contract subject to the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(f) For purposes of this section, “qualified provider” means a nonprofit agency with extensive experience in providing mental health services and that has utilized reimbursement from the Restitution Fund at a significant level on a regular and constant basis. Upon request of a nonprofit agency, the board shall determine if the nonprofit agency is a qualified provider for purposes of this section.

13958. The board shall approve or deny applications, based on recommendations of the board staff, within an average of 90 calendar days and no later than 180 calendar days of acceptance by the board or victim center.



(a) If the board does not meet the 90-day average standard prescribed in this subdivision, the board shall, thereafter, report to the Legislature, on a quarterly basis, its progress and its current average time of processing applications. These quarterly reports shall continue until the board meets the 90-day average standard for two consecutive quarters.

(b) If the board fails to approve or deny an individual application within 180 days of the date it is accepted, pursuant to this subdivision, the board shall advise the applicant and his or her representative, in writing, of the reason for the failure to approve or deny the application.

#### Article 5. Hearings and Judicial Review

13959. (a) The board shall grant a hearing to an applicant who believes he or she is entitled to compensation pursuant to this chapter to contest a staff recommendation to deny compensation in whole or in part.

(b) The board shall notify the applicant not less than 10 days prior to the date of the hearing. Notwithstanding Section 11123, if the application that the board is considering involves either a crime against a minor, a crime of sexual assault, or a crime of domestic violence, the board may exclude from the hearing all persons other than board members and members of its staff, the applicant for benefits, a minor applicant's parents or guardians, the applicant's representative, any witnesses, and other persons of the applicant's choice to provide assistance to the applicant during the hearing. However, the board may not exclude persons from the hearing if the applicant or applicant's representative requests that the hearing be open to the public.

(c) At the hearing, the person seeking compensation shall have the burden of establishing, by a preponderance of the evidence, the elements for eligibility under Section 13955.

(d) Except as otherwise provided by law, in making determinations of eligibility for compensation and in deciding upon the amount of compensation, the board shall apply the law in effect as of the date an application was submitted.

(e) The hearing shall be informal and need not be conducted according to the technical rules relating to evidence and witnesses. The board may rely on any relevant evidence if it is the sort of



evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of the evidence over objection in a civil action. The board may rely on written reports prepared for the board, or other information received, from public agencies responsible for investigating the crime. If the applicant or the applicant's representative chooses not to appear at the hearing, the board may act solely upon the application for compensation, the staff's report, and other evidence that appears in the record.

(f) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications. If the applicant's presence is required at the hearing, the board shall schedule the applicant's hearing in as convenient a location as possible.

(g) The board may delegate the hearing of applications to hearing officers.

(h) The decisions of the board shall be in writing. Copies of the decisions shall be delivered to the applicant or to his or her representative personally or sent to them by mail.

(i) The board may order a reconsideration of all or part of a decision on its own motion or on written request of the applicant. The board may not grant more than one such request with respect to any one decision on any application for compensation. The board may not consider any such request filed with the board more than 30 calendar days after the personal delivery or 60 calendar days after the mailing of the original decision.

13960. (a) Judicial review of a final decision made pursuant to this chapter may be had by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure. The right to petition shall not be affected by the failure to seek reconsideration before the board. The petition shall be filed as follows:

(1) Where no request for reconsideration is made, within 30 calendar days of personal delivery or within 60 calendar days of the mailing of the board's decision on the application for compensation.

(2) Where a timely request for reconsideration is filed and rejected by the board, within 30 calendar days of personal delivery or within 60 calendar days of the mailing of the notice of rejection.



(3) Where a timely request for reconsideration is filed and granted by the board, or reconsideration is ordered by the board, within 30 calendar days of personal delivery or within 60 calendar days of the mailing of the final decision on the reconsidered application.

(b) (1) In an action resulting in the issuance of a writ of mandate pursuant to this section the court may order the board to pay to the applicant's attorney reasonable attorney's fees or one thousand dollars (\$1,000), whichever is less. If action is taken by the board in favor of the applicant in response to the filing of the petition, but prior to a judicial determination, the board shall pay the applicant's costs of filing the petition.

(2) In case of appeal by the board of a decision on the petition for writ of mandate that results in a decision in favor of the applicant, the court may order the board to pay to the applicant's attorney reasonable attorney fees.

(3) Nothing in this section shall be construed to prohibit or limit an award of attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure.

#### Article 6. Administration

13962. (a) The board shall publicize through the board, law enforcement agencies, victim centers, hospitals, medical, mental health or other counseling service providers, and other public or private agencies, the existence of the program established pursuant to this chapter, including the procedures for obtaining compensation under the program.

(b) It shall be the duty of every local law enforcement agency to inform crime victims of the provisions of this chapter, of the existence of victim centers, and in counties where no victim center exists, to provide application forms to victims who desire to seek compensation pursuant to this chapter. The board shall provide application forms and all other documents that local law enforcement agencies and victim centers may require to comply with this section. The board, in cooperation with victim centers, shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply with the standards.



13963. (a) The board shall be subrogated to the rights of the recipient to the extent of any compensation granted by the board. The subrogation rights shall be against the perpetrator of the crime or any person liable for the losses suffered as a direct result of the crime which was the basis for receipt of compensation, including an insurer held liable in accordance with the provision of a policy of insurance issued pursuant to Section 11580.2 of the Insurance Code.

(b) The board shall also be entitled to a lien on any judgment, award, or settlement in favor of or on behalf of the recipient for losses suffered as a direct result of the crime that was the basis for receipt of compensation in the amount of the compensation granted by the board. The board may recover this amount in a separate action, or may intervene in an action brought by or on behalf of the recipient. If a claim is filed within one year of the date of recovery, the board shall pay 25 percent of the amount of the recovery that is subject to a lien on the judgment, award, or settlement, to the recipient responsible for recovery thereof from the perpetrator of the crime, provided that the total amount of the lien is recovered. The remaining 75 percent of the amount, and any amount not claimed within one year pursuant to this section, shall be deposited in the Restitution Fund.

(c) The board may compromise or settle and release any lien pursuant to this chapter if it is found that the action is in the best interest of the state or the collection would cause undue hardship upon the recipient. Repayment obligations to the Restitution Fund shall be enforceable as a summary judgment.

(d) No judgment, award, or settlement in any action or claim by a recipient, where the board has an interest, shall be satisfied without first giving the board notice and a reasonable opportunity to perfect and satisfy the lien. The notice shall be given to the board in Sacramento except in cases where the board specifies that the notice shall be given otherwise. The notice shall include the complete terms of the award, settlement, or judgment, and the name and address of any insurer directly or indirectly providing for the satisfaction.

(e) (1) If the recipient brings an action or asserts a claim for damages against the person or persons liable for the injury or death giving rise to an award by the board under this chapter, notice of the institution of legal proceedings, notice of all hearings,



conferences, and proceedings, and notice of settlement shall be given to the board in Sacramento except in cases where the board specifies that notice shall be given to the Attorney General. Notice of the institution of legal proceedings shall be given to the board within 30 days of filing the action. All notices shall be given by the attorney employed to bring the action for damages or by the recipient if no attorney is employed.

(2) Notice shall include all of the following:

(A) Names of all parties to the claim or action.

(B) The address of all parties to the claim or action except for those persons represented by attorneys and in that case the name of the party and the name and address of the attorney.

(C) The nature of the claim asserted or action brought.

(D) In the case of actions before courts or administrative agencies, the full title of the case including the identity of the court or agency, the names of the parties, and the case or docket number.

(3) When the recipient or his or her attorney has reason to believe that a person from whom damages are sought is receiving a defense provided in whole or in part by an insurer, or is insured for the injury caused to the recipient, notice shall include a statement of that fact and the name and address of the insurer. Upon request of the board, a person obligated to provide notice shall provide the board with a copy of the current written claim or complaint.

(f) The board shall pay the county probation department or other county agency responsible for collection of funds owed to the Restitution Fund under Section 13967, as operative on or before September 28, 1994, Section 1202.4 of the Penal Code, Section 1203.04 of the Penal Code, as operative on or before August 2, 1995, or Section 730.6 of the Welfare and Institutions Code, 10 percent of the funds so owed and collected by the county agency and deposited in the Restitution Fund. This payment shall be made only when the funds are deposited in the Restitution Fund within 45 days of the end of the month in which the funds are collected. Receiving 10 percent of the moneys collected as being owed to the Restitution Fund shall be considered an incentive for collection efforts and shall be used for furthering these collection efforts. The 10-percent rebates shall be used to augment the budgets for the county agencies responsible for collection of funds owed to the Restitution Fund, as provided in Section 13967, as



operative on or before September 28, 1994, Section 1202.4 of the Penal Code, Section 1203.04 of the Penal Code, operative on or before August 2, 1995, or Section 730.6 of the Welfare and Institutions Code. The 10-percent rebates shall not be used to supplant county funding.

(g) In the event of judgment or award in a suit or claim against a third party or insurer, if the action or claim is prosecuted by the recipient alone, the court or agency shall first order paid from any judgment or award the reasonable litigation expenses incurred in preparation and prosecution of the action or claim, together with reasonable attorney's fees when an attorney has been retained. After payment of the expenses and attorney's fees, the court or agency shall, on the application of the board, allow as a lien against the amount of the judgment or award, the amount of the compensation granted by the board to the recipient for losses sustained as a result of the same incident upon which the settlement, award, or judgment is based.

(h) For purposes of this section, "recipient" means any person who has received compensation or will be provided compensation pursuant to this chapter, including the victim's guardian, conservator or other personal representative, estate, and survivors.

13964. (a) Claims under this chapter shall be paid from the Restitution Fund.

(b) Notwithstanding Section 13340, the proceeds in the Restitution Fund are hereby continuously appropriated to the board, without regard to fiscal years, for the purposes of this chapter. However, the funds appropriated pursuant to this section for administrative costs of the board shall be subject to annual review through the State Budget process.

(c) A sum not to exceed 15 percent of the amount appropriated annually to pay claims pursuant to this chapter may be withdrawn from the Restitution Fund, to be used as a revolving fund by the board for the payment of emergency awards pursuant to Section 13961.

13965. (a) A person who has been overpaid or on whose behalf any provider or other person has been overpaid under this chapter is liable for that amount unless both of the following facts exist:

(1) The overpayment was not due to fraud, misrepresentation, or willful nondisclosure on the part of the recipient.



(2) The overpayment was received without fault on the part of the recipient, and its recovery would be against equity and good conscience.

(b) All overpayments exceeding two thousand dollars (\$2,000) shall be reported to the Legislature pursuant to Section 13928 and the relief from liability described in subdivision (a) shall be subject to legislative approval.

13966. The board may do all of the following to recover moneys owed to the Restitution Fund:

(a) File a civil action against the liable person for the recovery of the amount of moneys owed. This action shall be filed within one year of either of the following events, or within three years of either of the following events if the liable person was overpaid benefits due to fraud, misrepresentation, or nondisclosure as described in paragraph (1) of subdivision (a) of Section 13965:

(1) The mailing or personal service of the notice of the moneys owed if the person affected does not file an appeal with the board or person designated by the board.

(2) The mailing of the decision of the board if the person affected does not initiate a further appeal.

(b) (1) Initiate proceedings for a summary judgment against the liable person. However, this subdivision shall apply only where the board has found, pursuant to Section 13965, that the overpayment may not be waived. The board may, not later than three years after the overpayment became final, file with the clerk of the proper court in the county from which the overpayment of benefits was paid or in the county in which the claimant resides, a certificate containing all of the following:

(A) The amount due, plus interest from the date that the initial determination of the moneys owed was made.

(B) A statement that the board has complied with all the provisions of this chapter prior to the filing of the certificate.

(C) A request that the judgment be entered against the liable person in the amount set forth in the certificate.

(2) The clerk, immediately upon the filing of the certificate, shall enter a judgment for the state against the liable person in the amount set forth in the certificate.

13967. (a) (1) The Governor's Budget shall specify the estimated amount in the Restitution Fund that is in excess of the amount needed to pay claims pursuant to this chapter, to pay



administrative costs for increasing restitution funds, and to maintain a prudent reserve.

(2) It is the intent of the Legislature that, notwithstanding Section 13963, funds be appropriated in the annual Budget Act to the State Department of Mental Health from those funds that are determined to be in excess of the amount needed pursuant to paragraph (1), for the purposes of this section.

(b) Notwithstanding any other provision of law, moneys in the Restitution Fund appropriated in the annual Budget Act pursuant to subdivision (a) may be used to fund programs and activities operated by the State Department of Mental Health, that address the problem of unequal protection for, and unequal services to, crime victims with disabilities.

(c) Programs and activities that may be funded pursuant to this section include all of the following, as they relate to persons with disabilities:

(1) Identification of crime victims with disabilities.

(2) Crime and violence prevention.

(3) Improvement of access to victim's support and compensation.

(4) Planning and activities by service provider organizations to address the reduction of crime.

(5) Establishment of programs for personal safety, planning, and training.

(6) Public information efforts.

(7) Coordination with other federal and state agencies.

(8) Training of staff.

(9) Programs and activities that facilitate the building of partnerships between advocates and service providers and the criminal justice system to assist crime victims with disabilities to identify and report crime, and assist them in navigating the criminal justice system; secure victim assistance for victims with disabilities; and assist the criminal justice system in investigating, prosecuting, and trying those cases.

(10) Any other program or activity related to crime victims with disabilities.

(d) Moneys appropriated from the Restitution Fund may also be used for the evaluation of the effectiveness of the programs and activities funded pursuant to this section.



## Article 7. Miscellaneous

13968. (a) The board shall conduct a pilot program that entitles a victim or derivative victim to be reimbursed from the Restitution Fund for grief, mourning, and bereavement services in cases of death or severe trauma, except that the services shall not include mental health services for which a state license is required.

(b) Services under this section shall be rendered by a person certified as a child life specialist by the National Child Life Council, who has at least five years of professional experience in the field of child life, as defined by the council. These services shall be performed under the supervision of a court, hospital, physician and surgeon, licensed psychotherapist included in Section 1010 of the Evidence Code, community-based organization, or county. The board may only include in the program a certified child life specialist who has been determined by a current employer in California or a California licensing entity not to have a criminal history that would prevent that employment or the issuance of a license. If neither determination has occurred, the board shall secure from the Department of Justice a criminal record to determine whether the applicant would be disqualified from employment pursuant to Sections 45122.1 and 45123 of the Education Code, and for these purposes the board may make the determinations required by that section. The board may charge a certified child life specialist a fee for the actual cost of fingerprinting and obtaining the criminal history information required by this section.

(c) The program shall terminate on January 1, 2004. The board shall evaluate the program and, notwithstanding Section 7550.5, shall report its conclusions and recommendations to the Legislature by January 31, 2003. The board may consider whether child life specialists should be licensed by a state agency in making its recommendations to the Legislature.

(d) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

13969. (a) The board may provide reimbursements, which cumulatively may not exceed a total of two million five hundred seventy-five thousand dollars (\$2,575,000), to county boards of



supervisors, upon their request, for either of the following purposes:

(1) Providing group mental health counseling for those suffering trauma as a result of terrorism, as defined in Section 2332a or 2332b of Title 18 of the United States Code.

(2) Providing technical assistance in the promotion of tolerance for individuals whose national origin or religion may be targets of discrimination as a result of terrorism as described in this subdivision.

(b) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

13969.2. (a) The board may expand the scope of compensation to include derivative victims who incur a pecuniary loss as a direct result of any of the four terrorist attacks that occurred at the World Trade Center and the Pentagon, and in Pennsylvania, on September 11, 2001, as follows:

(1) A California resident derivative victim, as defined in subdivision (c) of Section 13951, when the victim has been injured or killed in a terrorist attack described in this section, regardless of whether or not the victim is or was a resident of the state.

(2) A California resident grandparent or grandchild of a victim injured or killed in a terrorist attack described in this section, regardless of whether or not the victim is or was a resident of the state.

(3) A California resident mother-in-law or father-in-law of a victim injured or killed in a terrorist attack described in this section, regardless of whether or not the victim is or was a resident of the state.

(4) As determined by the board, any other California resident family member of a victim injured or killed in a terrorist attack described in this section, regardless of whether or not the victim is or was a resident of the state.

(b) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

13969.5. (a) The board may provide reimbursement in an amount not to exceed ten thousand dollars (\$10,000) each, for the expense of mental health counseling for members of California trauma or search and rescue teams that were dispatched to the



scene of any of the four terrorist attacks that occurred at the World Trade Center and the Pentagon, and in Pennsylvania, on September 11, 2001.

(b) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

13969.7. (a) The board may make a one-time allocation of one million dollars (\$1,000,000) to the victim compensation program in the State of New York to aid that state in compensating victims of the terrorist attack on the World Trade Center that occurred on September 11, 2001.

(b) The Legislature finds and declares that the provision of funds for victim compensation in the State of New York as described in subdivision (a) serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

(c) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 3. Section 13951 is added to the Government Code, to read:

13951. As used in this chapter, the following definitions shall apply:

(a) “Board” means the California Victim Compensation and Government Claims Board.

(b) (1) “Crime” means a crime or public offense, wherever it may take place, that would constitute a misdemeanor or a felony if the crime had been committed in California by a competent adult.

(2) “Crime” includes an act of terrorism, as defined in Section 2331 of Title 18 of the United States Code, committed against a resident of the state, whether or not the act occurs within the state.

(c) “Derivative victim” means an individual who sustains pecuniary loss as a result of injury or death to a victim.

(d) “Law enforcement” means every district attorney, municipal police department, sheriff’s department, district attorney’s office, county probation department, and social services agency, the Department of Justice, the Department of Corrections, the Department of the Youth Authority, the Department of the California Highway Patrol, the police department of any campus



of the University of California, California State University, or community college, and every agency of the State of California expressly authorized by statute to investigate or prosecute law violators.

(e) “Pecuniary loss” means an economic loss or expense resulting from an injury or death to a victim of crime that has not been and will not be reimbursed from any other source.

(f) “Peer counseling” means counseling offered by a provider of mental health counseling services who has completed a specialized course in rape crisis or domestic violence counseling skills development, participates in continuing education in rape crisis or domestic violence counseling skills development, and provides rape crisis or domestic violence counseling within the State of California. In the case of a domestic violence peer counselor, the peer counselor shall meet the minimum training requirements for a domestic violence counselor described in Section 1037.1 of the Evidence Code, regardless of place of employment.

(g) “Victim” means an individual who sustains injury or death as a direct result of a crime as specified in subdivision (e) of Section 13955.

(h) “Victim center” means a victim and witness assistance center that receives funds pursuant to Section 13835.2 of the Penal Code.

SEC. 4. Section 13955 is added to the Government Code, to read:

13955. Except as provided in Section 13956, a person shall be eligible for compensation when all of the following requirements are met:

(a) The person for whom compensation is being sought is any of the following:

(1) A victim.

(2) A derivative victim.

(3) A person who is entitled to reimbursement for funeral, burial, or crime scene cleanup expenses pursuant to subdivision (i) of Section 13957.

(b) Either of the following conditions is met:

(1) The crime occurred within the State of California, whether or not the victim is a resident of the State of California. This paragraph shall apply only during those time periods during which



the board determines that federal funds are available to the State of California for the compensation of victims of crime.

(2) Whether or not the crime occurred within the State of California, the victim was any of the following:

(A) A resident of the State of California.

(B) A member of the military stationed in California.

(C) A family member living with a member of the military stationed in California.

(c) If compensation is being sought for a derivative victim, the derivative victim is a resident of California, or resident of another state, who is any of the following:

(1) At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.

(2) At the time of the crime was living in the household of the victim.

(3) At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in paragraph (1).

(4) Is another family member of the victim, including, but not limited to, the victim's fiancé or fiancée, and who witnessed the crime.

(5) Is the primary caretaker of a minor victim, but was not the primary caretaker at the time of the crime.

(d) The application is timely pursuant to Section 13953.

(e) (1) Except as provided in paragraph (2), the injury or death was a direct result of a crime.

(2) Notwithstanding paragraph (1), no act involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death constitutes a crime for the purposes of this chapter, except when the injury or death from such an act was any of the following:

(A) Intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(B) Caused by a driver who fails to stop at the scene of an accident in violation of Section 20001 of the Vehicle Code.

(C) Caused by a person who is under the influence of any alcoholic beverage or drug.



(D) Caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.

(E) Caused by a person who commits vehicular manslaughter in violation of subdivision (c) of Section 192 or Section 192.5 of the Penal Code.

(f) As a direct result of the crime, the victim or derivative victim sustained one or more of the following:

(1) Physical injury. The board may presume a child who has been the witness of a crime of domestic violence has sustained physical injury. A child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed by the board to have sustained physical injury, regardless of whether the child has witnessed the crime.

(2) Emotional injury and a threat of physical injury.

(3) Emotional injury, where the crime was a violation of any of the following provisions:

(A) Section 261, 262, 271, 273a, 273d, 285, 286, 288, 288a, 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the Penal Code.

(B) Section 270 of the Penal Code, where the emotional injury was a result of conduct other than a failure to pay child support, and criminal charges were filed.

(C) Section 261.5 of the Penal Code, and criminal charges were filed.

(D) Section 278 or 278.5 of the Penal Code, where the deprivation of custody as described in those sections has endured for 30 calendar days or more. For purposes of this paragraph, the child, and not the nonoffending parent or other caretaker, shall be deemed the victim.

(g) The injury or death has resulted or may result in pecuniary loss within the scope of compensation pursuant to Sections 13957 to 13957.9, inclusive.

SEC. 5. Section 13957 is added to the Government Code, to read:

13957. (a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses



incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient 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 as defined by Section 13837 of the Penal Code or by a domestic violence peer counselor described in subdivision (f) of Section 13951, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars (\$10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars (\$10,000) for not more than two derivative victims.

(B) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed three thousand dollars (\$3,000):

(i) A derivative victim not eligible for reimbursement pursuant to subparagraph (A), provided that mental health counseling of a derivative victim described in paragraph (5) of subdivision (c) of Section 13955, shall be reimbursed only if that counseling is necessary for the treatment of the victim.

(ii) A victim of a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of the Penal Code. A derivative victim of a crime committed in



violation of subdivision (d) of Section 261.5 of the Penal Code shall not be eligible for reimbursement of mental health counseling expenses. The total award to or on behalf of a victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code may not exceed three thousand dollars (\$3,000) for mental health counseling expenses only.

(C) The board may reimburse a victim or derivative victim for outpatient mental health counseling in excess of that authorized by subparagraphs (A) or (B) or for inpatient psychiatric, psychological, or other mental health counseling if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.

(D) Expenses for psychiatric, psychological, or other mental health counseling related services may be reimbursed only if the services were provided by either of the following individuals:

(i) A person who would have been authorized to provide those services pursuant to the provisions of former Article 1 (commencing with Section 13959) as it read on January 1, 2002.

(ii) A person who is licensed by the state to provide those services, or who is properly supervised by a person who is so licensed, subject to the board's approval and subject to the limitations and restrictions the board may impose.

(3) Reimburse the expenses of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(4) Subject to the limitations set forth in Section 13957.5, 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. If the victim or derivative victim requests that the board give priority to reimbursement of loss of income or support, the board may not pay medical expenses, or mental health counseling expenses, except upon the request of the victim or derivative victim or after determining that payment of these expenses will not decrease the funds available for payment of loss of income or support.

(5) Authorize a cash payment to or on behalf of the victim for job retraining or similar employment-oriented services.

(6) Reimburse the expense for installing or increasing residential security, not to exceed one thousand dollars (\$1,000),



with respect to a crime that occurred in the victim's residence, upon verification by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. Installing or increasing residential security may include, but need not be limited to, both of the following:

(A) Home security device or system.

(B) Replacing or increasing the number of locks.

(7) Reimburse the expense of renovating or retrofitting a victim's residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by a victim upon verification that the expense is medically necessary for a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total.

(8) Authorize a cash payment or reimbursement not to exceed two thousand dollars (\$2,000) to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. When a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender. The cash payment or reimbursement made under this subdivision shall only be awarded once to any victim, except that the board may, under compelling circumstances, award a second cash payment or reimbursement to the same victim if both of the following conditions are met:

(A) The crime occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(B) The crime does not involve the same offender.

(9) When a victim dies as a result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay any of the following expenses:



(A) The medical, funeral, or burial expenses incurred as a direct result of the crime in an amount not to exceed the rates or limitations established by the board.

(B) When the crime occurs in a residence, the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars (\$1,000). Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Health Services as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.

(b) The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars (\$35,000), except that this amount may be increased to seventy thousand dollars (\$70,000) if federal funds for that increase are available.

SEC. 6. Section 13957.7 is added to the Government Code, to read:

13957.7. (a) No reimbursement may be made for any expense that is submitted more than three years after it is incurred by the victim or derivative victim. However, reimbursement may be made for an expense submitted more than three years after the date it is incurred if the victim or derivative victim has affirmed the debt and is liable for the debt at the time the expense is submitted for reimbursement, or has paid the expense as a direct result of a crime for which a timely application has been filed.

(b) Compensation made pursuant to this chapter may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of compensation according to the applicant's need, subject to the maximum limits provided in this chapter.

(c) (1) The board may authorize direct payment to a provider of services that are reimbursable pursuant to this chapter and may make those payments prior to verification. However, the board may not, without good cause, authorize a direct payment to a provider over the objection of the victim or derivative victim.

(2) Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services shall, if the application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment.



(d) (1) Payments for peer counseling services provided by a rape crisis center or for domestic violence peer counseling services provided by an organization that provides domestic violence counseling services, shall be established by the board at an hourly rate. These services shall be limited to in-person counseling for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(2) A rape crisis peer counselor or domestic violence peer counselor who is funded in whole by federal funds shall not be eligible to receive reimbursement under this chapter.

(e) The board shall develop procedures to ensure that a victim is using compensation for job retraining or relocation only for its intended purposes. The procedures may include, but need not be limited to, requiring copies of receipts, agreements, or other documents as requested, or developing a method for direct payment.

(f) Compensation granted pursuant to this chapter shall not disqualify an otherwise eligible applicant from participation in any other public assistance program.

(g) The board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars (\$500), whichever is less, for each victim and each derivative victim. An attorney receiving fees from another source may waive the right to receive fees under this subdivision. Payments under this subdivision shall be in addition to any amount authorized or ordered under subdivision (b) of Section 13960. An attorney may not charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this chapter except as awarded under this chapter.

(h) A private nonprofit agency shall be reimbursed for its services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services, except that this reimbursement may not exceed the maximum reimbursement rates set by the board and may be made only to the extent that the victim otherwise qualifies for compensation under this chapter and that other reimbursement or direct subsidies are not available to serve the victim.

SEC. 7. Section 13957.7 is added to the Government Code, to read:



13957.7. (a) No reimbursement may be made for any expense that is submitted more than three years after it is incurred by the victim or derivative victim. However, reimbursement may be made for an expense submitted more than three years after the date it is incurred if the victim or derivative victim has affirmed the debt and is liable for the debt at the time the expense is submitted for reimbursement, or has paid the expense as a direct result of a crime for which a timely application has been filed.

(b) Compensation made pursuant to this chapter may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of compensation according to the applicant's need, subject to the maximum limits provided in this chapter.

(c) (1) The board may authorize direct payment to a provider of services that are reimbursable pursuant to this chapter and may make those payments prior to verification. However, the board may not, without good cause, authorize a direct payment to a provider over the objection of the victim or derivative victim.

(2) Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services shall, if the application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment.

(d) Payments for peer counseling services provided by a rape crisis center may not exceed fifteen dollars (\$15) for each hour of services provided. Those services shall be limited to in-person counseling for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(e) The board shall develop procedures to ensure that a victim is using compensation for job retraining or relocation only for its intended purposes. The procedures may include, but need not be limited to, requiring copies of receipts, agreements, or other documents as requested, or developing a method for direct payment.

(f) Compensation granted pursuant to this chapter shall not disqualify an otherwise eligible applicant from participation in any other public assistance program.

(g) The board shall pay reasonable fees to an attorney who provides legal services to a victim or derivative victim whose



application or request for compensation has been recommended for denial pursuant to Section 13959. Attorney fees may not exceed 10 percent of the amount the attorney has assisted the victim or derivative victim in obtaining, or five hundred dollars (\$500), whichever is less.

(h) A private nonprofit agency shall be reimbursed for its services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services, except that this reimbursement may not exceed the maximum reimbursement rates set by the board and may be made only to the extent that the victim otherwise qualifies for compensation under this chapter and that other reimbursement or direct subsidies are not available to serve the victim.

SEC. 8. Section 13957.7 is added to the Government Code, to read:

13957.7. (a) No reimbursement may be made for any expense that is submitted more than three years after it is incurred by the victim or derivative victim. However, reimbursement may be made for an expense submitted more than three years after the date it is incurred if the victim or derivative victim has affirmed the debt and is liable for the debt at the time the expense is submitted for reimbursement, or has paid the expense as a direct result of a crime for which a timely application has been filed.

(b) Compensation made pursuant to this chapter may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of compensation according to the applicant's need, subject to the maximum limits provided in this chapter.

(c) (1) The board may authorize direct payment to a provider of services that are reimbursable pursuant to this chapter and may make those payments prior to verification. However, the board may not, without good cause, authorize a direct payment to a provider over the objection of the victim or derivative victim.

(2) Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services shall, if the application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment.



(d) (1) Payments for peer counseling services provided by a rape crisis center or for domestic violence peer counseling services provided by an organization that provides domestic violence counseling services, shall be established by the board at an hourly rate. Those services shall be limited to in-person counseling for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(2) A rape crisis peer counselor or domestic violence peer counselor who is funded in whole by federal funds shall not be eligible to receive reimbursement under this chapter.

(e) The board shall develop procedures to ensure that a victim is using compensation for job retraining or relocation only for its intended purposes. The procedures may include, but need not be limited to, requiring copies of receipts, agreements, or other documents as requested, or developing a method for direct payment.

(f) Compensation granted pursuant to this chapter shall not disqualify an otherwise eligible applicant from participation in any other public assistance program.

(g) The board shall pay reasonable fees to an attorney who provides legal services to a victim or derivative victim whose application or request for compensation has been recommended for denial pursuant to Section 13959. Attorney fees may not exceed 10 percent of the amount the attorney has assisted the victim or derivative victim in obtaining, or five hundred dollars (\$500), whichever is less.

(h) A private nonprofit agency shall be reimbursed for its services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services, except that this reimbursement may not exceed the maximum reimbursement rates set by the board and may be made only to the extent that the victim otherwise qualifies for compensation under this chapter and that other reimbursement or direct subsidies are not available to serve the victim.

SEC. 9. The heading of Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 10. Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code is repealed.



SEC. 11. The heading of Article 2 (commencing with Section 13970) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 12. A heading is added as Chapter 5.5 (commencing with Section 13970) of Part 4 of Division 3 of Title 2 of the Government Code, immediately preceding Section 13970, to read:

CHAPTER 5.5. INDEMNIFICATION OF CITIZENS BENEFITING THE  
PUBLIC

SEC. 13. Section 13974.2 is added to the Government Code, to read:

13974.2. Any reference to Article 2 (commencing with Section 13970) of Chapter 5, as it read on December 31, 2002, shall be construed to refer to this chapter.

SEC. 14. Section 1202.42 is added to the Penal Code, to read:

1202.42. Upon entry of a restitution order under subdivision (c) of Section 13967 of the Government Code, as operative on or before September 28, 1994, paragraph (3) of subdivision (a) of Section 1202.4 of this code, or Section 1203.04 as operative on or before August 2, 1995, the following shall apply:

(a) The court shall enter a separate order for income deduction upon determination of the defendant's ability to pay, regardless of the probation status, in accordance with Section 1203. Determination of a defendant's ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required.

(b) (1) In any case in which the court enters a separate order for income deduction under this section, the order shall be stayed until the agency in the county responsible for collection of restitution determines that the defendant has failed to meet his or her obligation under the restitution order and the defendant has not provided the agency with good cause for the failure in accordance with paragraph (2).

(2) If the agency responsible for collection of restitution receives information that the defendant has failed to meet his or her obligation under the restitution order, the agency shall request the defendant to provide evidence indicating that timely payments



have been made or provide information establishing good cause for the failure. If the defendant fails to either provide the agency with the evidence or fails to establish good cause within five days of the request, the agency shall immediately inform the defendant of that fact, and shall inform the clerk of the court in order that an income deduction order will be served pursuant to subdivision (f) following a 15-day appeal period. The defendant may apply for a hearing to contest the lifting of the stay pursuant to subdivision (f).

(c) The income deduction order shall direct a payer to deduct from all income due and payable to the defendant the amount required by the court to meet the defendant's obligation.

(d) The income deduction order shall be effective so long as the order for restitution upon which it is based is effective or until further order of the court.

(e) When the court orders the income deduction, the court shall furnish to the defendant a statement of his or her rights, remedies, and duties in regard to the income deduction order. The statement shall state all of the following:

(1) All fees or interest that will be imposed.

(2) The total amount of income to be deducted for each pay period.

(3) That the income deduction order applies to current and subsequent payers and periods of employment.

(4) That a copy of the income deduction order will be served on the defendant's payer or payers.

(5) That enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount of restitution owed.

(6) That the defendant is required to notify the clerk of the court within seven days after changes in the defendant's address, payers, and the addresses of his or her payers.

(7) That the court order will be stayed in accordance with subdivision (b) and that a hearing is available in accordance with subdivision (f).

(f) (1) Upon receiving the notice described in paragraph (2) of subdivision (b), the clerk of the court or officer of the agency responsible for collection of restitution shall serve an income deduction order and the notice to payer on the defendant's payer unless the defendant has applied for a hearing to contest the enforcement of the income deduction order.



(2) (A) Service by or upon any person who is a party to a proceeding under this section shall be made in the manner prescribed for service upon parties in a civil action.

(B) Service upon the defendant's payer or successor payer under this section shall be made by prepaid certified mail, return receipt requested.

(3) The defendant, within 15 days after being informed that the order staying the income deduction order will be lifted, may apply for a hearing to contest the enforcement of the income deduction order on the ground of mistake of fact regarding the amount of restitution owed or on the ground that the defendant has established good cause for the nonpayment. The timely request for a hearing shall stay the service of an income deduction order on all payers of the defendant until a hearing is held and a determination is made as to whether the enforcement of the income deduction order is proper.

(4) The notice to any payer required by this subdivision shall contain only information necessary for the payer to comply with the income deduction order. The notice shall do all of the following:

(A) Require the payer to deduct from the defendant's income the amount specified in the income deduction order, and to pay that amount to the clerk of the court.

(B) Instruct the payer to implement the income deduction order no later than the first payment date that occurs more than 14 days after the date the income deduction order was served on the payer.

(C) Instruct the payer to forward, within two days after each payment date, to the clerk of the court the amount deducted from the defendant's income and a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order.

(D) Specify that if a payer fails to deduct the proper amount from the defendant's income, the payer is liable for the amount the payer should have deducted, plus costs, interest, and reasonable attorney's fees.

(E) Provide that the payer may collect up to five dollars (\$5) against the defendant's income to reimburse the payer for administrative costs for the first income deduction and up to one dollar (\$1) for each deduction thereafter.



(F) State that the income deduction order and the notice to payer are binding on the payer until further notice by the court or until the payer no longer provides income to the defendant.

(G) Instruct the payer that, when he or she no longer provides income to the defendant, he or she shall notify the clerk of the court and shall also provide the defendant's last known address and the name and address of the defendant's new payer, if known, and that, if the payer violates this provision, the payer is subject to a civil penalty not to exceed two hundred fifty dollars (\$250) for the first violation or five hundred dollars (\$500) for any subsequent violation.

(H) State that the payer shall not discharge, refuse to employ, or take disciplinary action against the defendant because of an income deduction order and shall state that a violation of this provision subjects the payer to a civil penalty not to exceed two hundred fifty dollars (\$250) for the first violation or five hundred dollars (\$500) for any subsequent violation.

(I) Inform the payer that when he or she receives income deduction orders requiring that the income of two or more defendants be deducted and sent to the same clerk of a court, he or she may combine the amounts that are to be paid to the depository in a single payment as long as he or she identifies that portion of the payment attributable to each defendant.

(J) Inform the payer that if the payer receives more than one income deduction order against the same defendant, he or she shall contact the court for further instructions.

(5) The clerk of the court shall enforce income deduction orders against the defendant's successor payer who is located in this state in the same manner prescribed in this subdivision for the enforcement of an income deduction order against a payer.

(6) A person may not discharge, refuse to employ, or take disciplinary action against an employee because of the enforcement of an income deduction order. An employer who violates this provision is subject to a civil penalty not to exceed two hundred fifty dollars (\$250) for the first violation or five hundred dollars (\$500) for any subsequent violation.

(7) When a payer no longer provides income to a defendant, he or she shall notify the clerk of the court and shall provide the defendant's last known address and the name and address of the defendant's new payer, if known. A payer who violates this



provision is subject to a civil penalty not to exceed two hundred fifty dollars (\$250) for the first violation or five hundred dollars (\$500) for a subsequent violation.

(g) As used in this section, “good cause” for failure to meet an obligation or “good cause” for nonpayment means, but shall not be limited to, any of the following:

(1) That there has been a substantial change in the defendant’s economic circumstances, such as involuntary unemployment, involuntary cost-of-living increases, or costs incurred as the result of medical circumstances or a natural disaster.

(2) That the defendant reasonably believes there has been an administrative error with regard to his or her obligation for payment.

(3) Any other similar and justifiable reasons.

SEC. 15. Section 1202.43 is added to the Penal Code, to read:

1202.43. (a) The restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative on or before September 28, 1994, subparagraph (B) of paragraph (2) of subdivision (a) of Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4 shall be payable to the clerk of the court, the probation officer, or any other person responsible for the collection of criminal fines. If the defendant is unable or otherwise fails to pay that fine in a felony case and there is an amount unpaid of one thousand dollars (\$1,000) or more within 60 days after the imposition of sentence, or in a case in which probation is granted, within the period of probation, the clerk of the court, probation officer, or other person to whom the fine is to be paid shall forward to the Controller the abstract of judgment along with any information which may be relevant to the present and future location of the defendant and his or her assets, if any, and any verifiable amount which the defendant may have paid to the victim as a result of the crime.

(b) A restitution fine shall be deemed a debt of the defendant owing to the state for the purposes of Sections 12418 and 12419.5 of the Government Code, excepting any amounts the defendant has paid to the victim as a result of the crime. Upon request by the Controller, the district attorney of a county or the Attorney General may take any necessary action to recover amounts owing on a restitution fine. The amount of the recovery shall be increased by a sum sufficient to cover any costs incurred by any state or local



agency in the administration of this section. The remedies provided by this subdivision are in addition to any other remedies provided by law for the enforcement of a judgment.

SEC. 16. (a) Section 3 of this bill incorporates changes to Section 13960 of the Government Code proposed by AB 2729 into the provisions of Section 13951, as proposed to be added to the Government Code by Section 2 of this bill. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) AB 2729 amends Section 13960 of the Government Code, (3) this bill adds Section 13951 to the Government Code, and (4) this bill is enacted after AB 2729, in which case Section 13951 of the Government Code as added by Section 2 of this bill shall not become operative.

(b) Section 4 of this bill incorporates changes to Section 13960 of the Government Code proposed by AB 2462 into the provisions of Section 13955, as proposed to be added to the Government Code by Section 2 of this bill. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) AB 2462 amends Section 13960 of the Government Code, (3) this bill adds Section 13955 to the Government Code, and (4) this bill is enacted after AB 2462, in which case Section 13955 of the Government Code as added by Section 2 of this bill shall not become operative.

(c) Section 5 of this bill incorporates changes to Section 13960 of the Government Code proposed by AB 2729 into the provisions of Section 13957, as proposed to be added to the Government Code by Section 2 of this bill. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) AB 2729 amends Section 13960 of the Government Code, (3) this bill adds Section 13957 to the Government Code, and (4) this bill is enacted after AB 2729, in which case Section 13957 of the Government Code as added by Section 2 of this bill shall not become operative.

(d) Section 6 of this bill incorporates changes to Section 13965 of the Government Code proposed by AB 2729 into the provisions of Section 13957.7, as proposed to be added to the Government Code by Section 2 of this bill. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) AB 2729 amends Section 13965 of the Government Code, (3) this bill adds Section 13957.7 to the Government Code,



(4) AB 2542 is not enacted or as enacted does not amend Section 13965 of the Government Code, and (5) this bill is enacted after AB 2729, in which case Sections 7 and 8 of this bill, and Section 13957.7 of the Government Code as added by Section 2 of this bill, shall not become operative.

(e) Section 7 of this bill incorporates changes to Section 13965 of the Government Code proposed by AB 2542 into the provisions of Section 13957.7, as proposed to be added to the Government Code by Section 2 of this bill. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) AB 2542 amends Section 13965 of the Government Code, (3) this bill adds Section 13957.7 to the Government Code, (4) AB 2729 is not enacted or as enacted does not amend Section 13965 of the Government Code, and (5) this bill is enacted after AB 2542, in which case Sections 6 and 8 of this bill, and Section 13957.7 of the Government Code as added by Section 2 of this bill, shall not become operative.

(f) Section 8 of this bill incorporates changes to Section 13965 of the Government Code proposed by both AB 2729 and AB 2542 into the provisions of Section 13957.7, as proposed to be added to the Government Code by Section 2 of this bill. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2003, (2) both AB 2729 and AB 2542 amend Section 13965 of the Government Code, (3) this bill adds Section 13957.7 to the Government Code, and (4) this bill is enacted after AB 2729 and AB 2542, in which case Sections 6 and 7 of this bill, and Section 13957.7 of the Government Code as added by Section 2 of this bill, shall not become operative.



Approved \_\_\_\_\_, 2002

\_\_\_\_\_  
*Governor*

