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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15990.3] (Division 3 added by Stats. 1945, Ch. 111.)

PART 4. CALIFORNIA VICTIM COMPENSATION BOARD [13900 - 13974.5] (Heading of Part 4 amended by Stats. 2016, Ch. 31, Sec. 102.)

CHAPTER 5. Indemnification of Victims of Crime [13950 - 13966] (Chapter 5 added by Stats. 2002, Ch. 1141, Sec. 2.)

ARTICLE 6. Administration [13962 - 13966] (Article 6 added by Stats. 2002, Ch. 1141, Sec. 2.)

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. The board shall conduct outreach to local law enforcement agencies about their duties under this section.

(c) Every local law enforcement agency shall annually provide to the board contact information for the Victims of Crime Liaison Officer designated pursuant to Section 649.36 of Title 2 of the California Code of Regulations.

(d) The board shall annually make available to the Victims of Crime Liaison Officer at every local law enforcement agency one hour of training on victim compensation in California and materials to educate the officers and staff in their law enforcement agencies and publicize the program within their jurisdictions.

(e) The board's outreach pursuant to subdivision (a) and training pursuant to subdivision (d) shall affirm that neither access to information about victim compensation, nor an application for compensation, shall be denied on the basis of the victim's or derivative victim's membership in, association with, or affiliation with, a gang, or on the basis of the victim's or derivative victim's designation as a suspected gang member, associate, or affiliate in a shared gang database, as defined in Section 186.34 of the Penal Code.

(f) The board's outreach pursuant to subdivision (a) and training pursuant to subdivision (d) shall affirm that neither access to information about victim compensation, nor an application for compensation, shall be denied on the basis of the victim's or derivative victim's documentation or immigration status.

(g) (1) This section shall become inoperative on July 1, 2024, only if General Fund moneys over the multiyear forecasts beginning in the 2024–25 fiscal year are available to support ongoing augmentations and actions, and if an appropriation is made to backfill the Restitution Fund to support the actions in this section. If those conditions are met, this section is repealed January 1, 2025.

(2) The amendments made by the act adding this subdivision shall become operative on January 1, 2023.

(Amended by Stats. 2022, Ch. 771, Sec. 10. (AB 160) Effective September 29, 2022. Operative January 1, 2023, by its own provisions. Conditionally inoperative July 1, 2024, as prescribed by its own provisions. Conditionally repealed January 1, 2025, as prescribed by its own provisions. See later operative version added by Sec. 11 of Stats. 2022, Ch. 771.)

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 of the existence of trauma recovery centers as described under Section 13963.1, and 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. The board shall conduct outreach to local law enforcement agencies about their duties under this section.

(c) Every local law enforcement agency shall annually provide to the board contact information for the Victims of Crime Liaison Officer designated pursuant to Section 649.36 of Title 2 of the California Code of Regulations.

(d) The board shall annually make available to the Victims of Crime Liaison Officer at every local law enforcement agency one hour of training on victim compensation in California and materials to educate the officers and staff in their law enforcement agencies and publicize the program within their jurisdictions.

(e) The board's outreach pursuant to subdivision (a) and training pursuant to subdivision (d) shall affirm that neither access to information about victim compensation, nor an application for compensation, shall be denied on the basis of the victim's or derivative victim's membership in, association with, or affiliation with, a gang, or on the basis of the victim's or derivative victim's designation as a suspected gang member, associate, or affiliate in a shared gang database, as defined in Section 186.34 of the Penal Code.

(f) The board's outreach pursuant to subdivision (a) and training pursuant to subdivision (d) shall affirm that neither access to information about victim compensation, nor an application for compensation, shall be denied on the basis of the victim's or derivative victim's documentation or immigration status.

(g) (1) The board shall provide every general acute care hospital in the state that operates an emergency department with both of the following:

(A) A poster developed by the board describing the existence of the program established pursuant to this chapter, including the procedures for obtaining compensation under the program.

(B) Application forms to distribute to victims, derivative victims, and their family members who desire to seek compensation pursuant to this chapter.

(2) It shall be the duty of every general acute care hospital to display a poster provided to the hospital pursuant to subparagraph (A) of paragraph (1) prominently in the lobby or waiting area of its emergency department.

(3) At the request of the hospital, the board shall provide the documents described in paragraph (1) in any of the languages listed in paragraph (4) of subdivision (d) of Section 13952.

(h) This section shall become operative on July 1, 2024, only if General Fund moneys over the multiyear forecasts beginning in the 2024–25 fiscal year are available to support ongoing augmentations and actions, and if an appropriation is made to backfill the Restitution Fund to support the actions in this section.

(Repealed (in Sec. 10) and added by Stats. 2022, Ch. 771, Sec. 11. (AB 160) Effective September 29, 2022. Conditionally operative July 1, 2024, as prescribed by its own provisions.)

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 if the recipient notified the board of the action prior to receiving any recovery. The remaining 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.

(i) In accordance with subparagraph (B) of paragraph (4) of subdivision (f) of Section 1202.4 of the Penal Code, a representative of the board may provide the probation department, district attorney, and court with information relevant to the board's losses prior to the imposition of a sentence.

(Amended by Stats. 2015, Ch. 569, Sec. 10. (AB 1140) Effective January 1, 2016.)

13963.1. (a) The Legislature finds and declares all of the following:

(1) Without treatment, approximately 50 percent of people who survive a traumatic, violent injury experience lasting or extended psychological or social difficulties. Untreated psychological trauma often has severe economic consequences, including overuse of costly medical services, loss of income, failure to return to gainful employment, loss of medical insurance, and loss of stable housing.

(2) Victims of crime should receive timely and effective mental health treatment.

(3) The board shall administer a program to evaluate applications and award grants to trauma recovery centers.

(b) The board shall award a grant only to a trauma recovery center that meets all of the following criteria:

(1) The trauma recovery center demonstrates that it serves as a community resource by providing services, including, but not limited to, making presentations and providing training to law enforcement, community-based agencies, and other health care providers on the identification and effects of violent crime.

(2) Any other related criteria required by the board.

(3) The trauma recovery center uses the core elements established in Section 13963.2.

(c) It is the intent of the Legislature to provide an annual appropriation of two million dollars (\$2,000,000) per year from the Restitution Fund.

(d) The board may award a grant providing funding for up to a maximum period of three years. Any portion of a grant that a trauma recovery center does not use within the specified grant period shall revert to the Restitution Fund. The board may award consecutive grants to a trauma recovery center to prevent a lapse in funding.

(e) The board, when considering grant applications, shall give preference to a trauma recovery center that conducts outreach to, and serves, both of the following:

(1) Crime victims who typically are unable to access traditional services, including, but not limited to, victims who are homeless, chronically mentally ill, of diverse ethnicity, members of immigrant and refugee groups, disabled, who have severe trauma-related symptoms or complex psychological issues, or juvenile victims, including minors who have had contact with the juvenile dependency or justice system.

(2) Victims of a wide range of crimes, including, but not limited to, victims of sexual assault, domestic violence, physical assault, shooting, stabbing, human trafficking, and vehicular assault, and family members of homicide victims.

(f) The trauma recovery center sites shall be selected by the board through a well-defined selection process that takes into account the rate of crime and geographic distribution to serve the greatest number of victims.

(g) A trauma recovery center that is awarded a grant shall do both of the following:

(1) Report to the board annually on how grant funds were spent, how many clients were served (counting an individual client who receives multiple services only once), units of service, staff productivity, treatment outcomes, and patient flow throughout both the clinical and evaluation components of service.

(2) In compliance with federal statutes and rules governing federal matching funds for victims' services, each center shall submit any forms and data requested by the board to allow the board to receive the 60 percent federal matching funds for eligible victim services and allowable expenses.

(h) For purposes of this section, a trauma recovery center provides, including, but not limited to, all of the following resources, treatments, and recovery services to crime victims:

(1) Mental health services.

(2) Assertive community-based outreach and clinical case management.

(3) Coordination of care among medical and mental health care providers, law enforcement agencies, and other social services.

(4) Services to family members and loved ones of homicide victims.

(5) A multidisciplinary staff of clinicians that includes psychiatrists, psychologists, and social workers, and may include case managers and peer counselors.

(Amended by Stats. 2017, Ch. 587, Sec. 2. (AB 1384) Effective January 1, 2018.)

13963.2. The Trauma Recovery Center at the San Francisco General Hospital, University of California, San Francisco, is recognized as the State Pilot Trauma Recovery Center (State Pilot TRC). The California Victim Compensation Board shall use the evidence-informed Integrated Trauma Recovery Services (ITRS) model developed by the State Pilot TRC when it selects, establishes, and implements Trauma Recovery Centers (TRCs) pursuant to Section 13963.1. All TRCs funded through the Restitution Fund or Safe Neighborhoods and Schools Fund shall do all of the following:

(a) Provide outreach and services to crime victims who typically are unable to access traditional services, including, but not limited to, victims who are homeless, chronically mentally ill, members of immigrant and refugee groups, disabled, who have severe trauma-related symptoms or complex psychological issues, are of diverse ethnicity or origin, or are juvenile victims, including minors who have had contact with the juvenile dependency or justice system.

(b) Serve victims of a wide range of crimes, including, but not limited to, victims of sexual assault, domestic violence, battery, crimes of violence, vehicular assault, and human trafficking, as well as family members of homicide victims.

(c) Offer evidence-based and evidence-informed mental health services and support services that include individual and group treatment, medication management, substance abuse treatment, case management, and assertive outreach. This care shall be provided in a manner that increases access to services and removes barriers to care for victims of violent crime, and may include providing services to a victim in his or her home, in the community, or at other locations conducive to maintaining quality treatment and confidentiality.

(d) Be comprised of a staff that includes a multidisciplinary team of clinicians made up of at least one psychologist, one social worker, and additional staff. Clinicians are not required to work full-time as a member of the multidisciplinary team. At least one psychiatrist shall be available to the team to assist with medication management, provide consultation, and assist with treatment to meet the clinical needs of the victim. The psychiatrist may be on staff or on contract. A clinician shall be either a licensed clinician or a supervised clinician engaged in completion of the applicable licensure process. Clinical supervision and other supports shall be provided to staff regularly to ensure the highest quality of care and to help staff constructively manage vicarious trauma they experience as service providers to victims of violent crime. Clinicians shall meet the training or certification requirements for the evidence-based practices they use.

(e) Offer mental health services and case management that are coordinated through a single point of contact for the victim, with support from an integrated multidisciplinary treatment team. Each client receiving mental health services shall have a treatment plan in place, which is periodically reviewed by the multidisciplinary team. Examples of primary treatment goals include, but are not limited to, a decrease in psychosocial distress, minimizing long-term disability, improving overall quality of life, reducing the risk of future victimization, and promoting post-traumatic growth.

(f) Deliver services that include assertive outreach and case management including, but not limited to, accompanying a client to court proceedings, medical appointments, or other appointments as needed, assistance with filing an application for assistance to the California Victim Compensation Board, filing police reports or filing restraining orders, assistance with obtaining safe housing and financial benefits, helping a client obtain medical care, providing assistance securing employment, and working as a liaison to other community agencies, law enforcement, or other supportive service providers as needed. TRCs shall offer outreach and case management services to clients without regard to whether clients choose to access mental health services.

(g) Ensure that no person is excluded from services solely on the basis of emotional or behavioral issues resulting from trauma, including, but not limited to, substance abuse problems, low initial motivation, or high levels of anxiety.

(h) Utilize established, evidence-based and evidence-informed practices in treatment. These practices may include, but are not limited to, motivational interviewing, harm reduction, seeking safety, cognitive behavioral therapy, and trauma-focused cognitive processing therapy.

(i) Ensure that no person is excluded from services based on immigration status.

(Added by Stats. 2017, Ch. 587, Sec. 3. (AB 1384) Effective January 1, 2018.)

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

(b) Notwithstanding Section 13340, except for funds to support trauma recovery center grants pursuant to Section 13963.1, 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.

(Amended by Stats. 2013, Ch. 28, Sec. 14. (SB 71) Effective June 27, 2013.)

13965. (a) Any recipient of an overpayment pursuant to this chapter is liable to repay the board 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 actions to collect overpayments shall commence within seven years from the date of the overpayment. However, an action to collect an overpayment due to fraud, misrepresentation, or willful nondisclosure by the recipient may be commenced at any time.

(c) Any recipient of an overpayment is authorized to contest the staff recommendation of an overpayment pursuant to the hearing procedures in Section 13959. If a final determination is made by the board that an overpayment exists, the board may collect the overpayment in any manner prescribed by law.

(d) 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.

(Amended by Stats. 2015, Ch. 569, Sec. 11. (AB 1140) Effective January 1, 2016.)

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.

(Added by Stats. 2002, Ch. 1141, Sec. 2. Effective January 1, 2003.)