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HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] (*Division 20 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 1.6. Forced or Involuntary Sterilization Compensation Program [24210 - 24218] (*Chapter 1.6 added by Stats. 2021, Ch. 77, Sec. 21.*)

24210. (a) There is hereby established the Forced or Involuntary Sterilization Compensation Program, to be administered by the California Victim Compensation Board.

(b) The purpose of the program is to provide victim compensation to the following individuals:

(1) Any survivor of state-sponsored sterilization conducted pursuant to eugenics laws that existed in the State of California between 1909 and 1979.

(2) Any survivor of coercive sterilization performed on an individual under the custody and control of the Department of Corrections and Rehabilitation after 1979.

(c) For purposes of this chapter, the following definitions apply:

(1) "Board" means the California Victim Compensation Board.

(2) "Program" means the Forced or Involuntary Sterilization Compensation Program.

(3) "Qualified recipient" means an individual who is eligible for victim compensation pursuant to this chapter by meeting the following requirements of either eligibility as a survivor of eugenics sterilization or as a survivor of coercive sterilization of imprisoned populations:

(A) Eligibility as a survivor of eugenics sterilization requires an individual to meet all of the following requirements:

(i) The individual was sterilized pursuant to eugenics laws that existed in the State of California between 1909 and 1979.

(ii) The individual was sterilized while the individual was at a facility under the control of the State Department of State Hospitals or the State Department of Developmental Services, including any of the following institutions:

(I) Agnews Developmental Center, formerly known as Agnews State Mental Hospital.

(II) Atascadero State Hospital.

(III) Camarillo State Hospital and Developmental Center.

(IV) DeWitt State Hospital.

(V) Fairview Developmental Center, formerly known as Fairview State Hospital.

(VI) Mendocino State Hospital.

(VII) Modesto State Hospital.

(VIII) Napa State Hospital, formerly known as Napa State Asylum for the Insane.

(IX) Metropolitan State Hospital, formerly known as Norwalk State Hospital.

(X) Frank D. Lanterman State Hospital and Developmental Center, formerly known as Pacific State Hospital or Pacific Colony.

(XI) Patton State Hospital, formerly known as Southern California State Asylum for the Insane and Inebriates.

(XII) Porterville Developmental Center, formerly known as Porterville State Hospital.

(XIII) Sonoma Developmental Center, formerly known as Sonoma State Hospital, Sonoma State Home, or California Home for the Care and Training of the Feeble Minded.

(XIV) Stockton Developmental Center, formerly known as Stockton State Hospital.

(iii) The individual is alive as of the start date of the program.

(B) Eligibility as a survivor of coercive sterilization of imprisoned populations requires an individual to meet all of the following requirements:

(i) The individual was sterilized while under the custody and control of the Department of Corrections and Rehabilitation and imprisoned in a state prison or reentry facility, community correctional facility, county jail, or any other institution in which they were involuntarily confined or detained under a civil or criminal statute.

(ii) The sterilization was not required for the immediate preservation of the individual's life in an emergency medical situation.

(iii) The sterilization was not the consequence of a chemical sterilization program administered to convicted sex offenders.

(iv) The individual's sterilization meets one of the following requirements:

(I) The individual was sterilized for a purpose that was not medically necessary, as determined by contemporaneous standards of evidence-based medicine.

(II) The individual was sterilized for the purpose of birth control.

(III) The individual was sterilized without demonstrated informed consent, for which evidence of a lack of consent includes, but is not limited to, the following:

(ia) Procurement of a pregnant individual's written consent within 30 days of anticipated or actual labor or delivery or less than 72 hours before emergency abdominal surgery and premature delivery.

(ib) Procurement of an individual's written consent less than 30 days before sterilization.

(ic) Failure of the prison administration to document written informed consent signed by the imprisoned individual.

(id) Failure of the prison administration to document the use of interpreters for non-English speakers to ensure understanding by the imprisoned individual of the medical treatment being consented to.

(ie) Failure of the prison administration to document the counseling of the imprisoned individual on, and offering a consultation of, treatment options that would not result in loss of reproductive capacity.

(if) Failure of the prison administration to document written informed consent to sterilization signed by the imprisoned individual if sterilization is performed in conjunction with or in addition to other surgery.

(ig) Failure of prison staff, employees, or agents to comply with requirements of Section 3440 of the Penal Code after its enactment, designed to prohibit and deter coercive sterilization of people in prison.

(IV) The sterilization was performed by means that are otherwise prohibited by law or regulation.

(4) "Start date of the program" means the date the program becomes operative pursuant to Section 24212.

(Added by Stats. 2021, Ch. 77, Sec. 21. (AB 137) Effective July 16, 2021. Inoperative July 1, 2026, pursuant to Section 24218. Repealed as of January 1, 2027, pursuant to Section 24218.)

24211. (a) The board shall do all of the following to implement the program:

(1) In consultation with community-based organizations, conduct outreach to locate qualified recipients and notify the qualified recipients of the process through which to apply for victim compensation. The board may use various methods to conduct

outreach, including, but not limited to, modalities such as radio announcements, social media posts, and flyers to libraries, social service agencies, long-term care facilities, group homes, supported living organizations, regional centers, and reentry programs. Additionally, the Department of Corrections and Rehabilitation shall post notice of the program, qualifications, and claim process in all California parole and probation offices, and all state prison yards in an area accessible to the prison population.

(2) Review and verify all applications for victim compensation.

(A) The board shall consult the HIPAA-compliant eugenic sterilization database developed by the Sterilization and Social Justice Lab at the University of Michigan and may consult records of the State Archives to verify the identity of an individual claiming the individual was sterilized pursuant to eugenics laws during the period of 1919 to 1952, inclusive.

(B) The board shall consult the records of the State Department of State Hospitals and the State Department of Developmental Services to verify the identity of an individual claiming to have been sterilized pursuant to eugenics laws during the period of 1953 to 1979, inclusive. The State Department of State Hospitals and the State Department of Developmental Services shall make every reasonable effort to locate and share with the board records that will help the board verify claims of individuals sterilized in state institutions from 1953 to 1979, inclusive. This information shall be provided to the board pursuant to the authorizations described in subdivision (aa) of Section 4514 of the Welfare and Institutions Code and paragraph (26) of subdivision (a) of Section 5328 of the Welfare and Institutions Code. The information may include, but is not limited to, documentation of the individual's sterilization, sterilization recommendation, surgical consent forms, relevant court or institutional records, or a sworn statement by the survivor or another individual with personal knowledge of the sterilization. These data may be contained in documents such as institutional reports, annual reports, extant patient records, superintendents' files, and administrative records. The board shall maintain the confidentiality of any information received from the State Department of State Hospitals and the State Department of Developmental Services in accordance with Part 160 (commencing with Section 160.101) and Part 164 (commencing with Section 164.102) of Subchapter C of Subtitle A of Title 45 of the Code of Federal Regulations and Sections 4514 and 5328 of the Welfare and Institutions Code.

(C) The board shall consult the records obtained, collected, and considered within the state audit into coercive sterilizations in California women's prisons to verify the identity of individuals under the custody and control of the Department of Corrections and Rehabilitation who were coercively sterilized during labor and delivery within the scope and timeframe considered by the audit.

(D) The board shall consult with the Federal Receiver for Inmate Medical Services and the Department of Corrections and Rehabilitation to identify individuals who were coercively sterilized while under the custody and control of the Department of Corrections and Rehabilitation.

(E) The board shall consult the records of the Department of Corrections and Rehabilitation and its contracting medical facilities or providers, as necessary, to verify the identity of an individual claiming to have been coercively sterilized while under the custody and control of the Department of Corrections and Rehabilitation. The Department of Corrections and Rehabilitation shall make every reasonable effort to locate and share with the board records that will help the board verify claims of individuals sterilized while under state custody and control.

(F) The board shall allow a claimant to submit evidence that proves the claimant was either sterilized during the period of 1919 to 1979, inclusive, or was coercively sterilized while under the custody and control of the Department of Corrections and Rehabilitation after 1979. The board shall evaluate this evidence by a preponderance of the evidence standard to determine whether it is more likely than not that the claimant is a qualified recipient. The claimant's submission of evidence does not relieve the board of its responsibility to verify an individual's identity by consulting the resources described in subparagraphs (A) through (E), inclusive.

(G) The board shall not have the discretion to deny compensation to any claimant who is a qualified recipient.

(3) Include an area on the application for a claimant to voluntarily report demographic information about gender, race, ethnicity, disability, age, sexual orientation, and gender identity.

(4) Affirmatively identify and disclose coercive sterilizations that occurred in California prisons.

(A) The board shall affirmatively employ the measures outlined in subparagraphs (C) and (D) of paragraph (2) to identify qualified recipients who were sterilized while in the custody and control of the Department of Corrections and Rehabilitation after 1979 and who have not personally or through an agent filed a claim for compensation.

(B) Upon identifying a qualified recipient, the board shall consult with other state and federal agencies and departments to determine contact information for the individual for purposes of disclosing the sterilization. To the extent permitted by federal law governing confidentiality of the applicable information, the board shall consult with additional entities, including, but not limited to, the Department of Corrections and Rehabilitation, the Employment Development Department, the Department of

Motor Vehicles, the California Secretary of State, the United States Department of Homeland Security, the United States Immigration and Customs Enforcement, the United States Department of Justice, and the Social Security Administration.

(C) In consultation with community-based prisoner advocacy organizations and municipal health agencies responsible for communicating risk of exposure to communicable diseases, the board shall develop a culturally competent and technologically appropriate mechanism of disclosing the sterilization and available compensation to qualified recipients. The notification protocol and procedure shall require access to free counseling, culturally and linguistically appropriate notification, and a diversity of communications technologies to maximize the likelihood that disclosure is successfully relayed to the individual. If the review of an individual's qualifications was initiated at an individual's request by the individual's physician, that physician shall be consulted and included in the notification and disclosure process.

(D) Upon identifying a qualified recipient who has not already submitted a claim for compensation and obtaining the qualified recipient's contact information, the board shall contact the municipal health agency responsible for communicating possible exposure to communicable diseases in that qualified recipient's geographic area when developing the notification protocol pursuant to subparagraph (C).

(E) Any notification protocol shall include notice of the availability of compensation under this chapter and information on how to submit a claim.

(5) Oversee the appeal process.

(b) (1) The board shall annually submit a report to the Legislature, including the number of applications submitted, the number of qualified individuals identified who have not filed an application and for whom disclosure is required, the number of disclosures communicated, the number of applications approved, the number of applications denied, the number of claimants paid, the number of appeals submitted, the result of those appeals, and the total amount paid in compensation.

(2) The report shall also include data on claimants' demographic information, including gender, race, ethnicity, disability, age, sexual orientation, and gender identity, as voluntarily provided on a claimant's application form. The report shall also include data about the age a claimant was sterilized and the facility where sterilization occurred, as verified by the board. Demographic information shall be reported in aggregate and the names of individual claimants shall be kept confidential.

(3) The report shall also include data on outreach methods or processes used by the board to reach potential claimants.

(4) The report shall be submitted in compliance with Section 9795 of the Government Code.

(5) The report shall be made available to the public.

(c) (1) The board shall develop and implement procedures to receive and process applications for victim compensation under this program no later than six months after the start date of the program.

(2) The board shall implement the outreach plan described in paragraph (4) of subdivision (a) beginning six months after the start date of the program.

(Added by Stats. 2021, Ch. 77, Sec. 21. (AB 137) Effective July 16, 2021. Inoperative July 1, 2026, pursuant to Section 24218. Repealed as of January 1, 2027, pursuant to Section 24218.)

24212. (a) This chapter shall become operative only upon an appropriation in the annual Budget Act or any other act approved by the Legislature for the express purpose of implementing this chapter. Upon appropriation, the board and departments specified in this chapter shall each post a notice on their internet websites informing the public of the date on which the program became operative.

(b) The Forced or Involuntary Sterilization Compensation Account is hereby established in the State Treasury, and shall be administered by the California Victim Compensation Board. Any funds appropriated for purposes of this chapter shall be held in this account and shall be used for the purpose of implementing this chapter. Any costs incurred by any state department or agency for these purposes may be reimbursed from this account.

(Added by Stats. 2021, Ch. 77, Sec. 21. (AB 137) Effective July 16, 2021. Inoperative July 1, 2026, pursuant to Section 24218. Repealed as of January 1, 2027, pursuant to Section 24218.)

24213. (a) (1) An individual seeking victim compensation pursuant to the program shall submit an application to the board beginning six months after the start date of the program and no later than two years and six months after the start date of the program.

(2) An individual incarcerated or otherwise under the control of the Department of Corrections and Rehabilitation at the time of filing an application need not exhaust administrative remedies before submitting an application for, or receiving, victim compensation pursuant to the program and shall not be disqualified from receiving compensation based on the individual's incarcerated status.

(3) The board shall screen the application and accompanying documentation for completeness. If the board determines that an application is incomplete, it shall notify the claimant or the claimant's lawfully authorized representative that the application is not complete in writing by certified mail no later than 30 calendar days following the screening of the application. The notification shall specify the additional documentation required to complete the application. If the application is incomplete, the claimant shall have 60 calendar days from the receipt of the notification to submit the required documentation. If the required documentation is not received within 60 calendar days, the application will be closed and the claimant shall submit a new application if the claimant seeks victim compensation pursuant to the program, to be reviewed without prejudice.

(4) The board shall not consider an application or otherwise act on it until the board determines the application is complete with all required documentation.

(5) If a claimant receives an adverse claim decision, the claimant may file an appeal to the board no later than January 1, 2025. After receiving the appeal, the board shall again attempt to verify the claimant's identity pursuant to paragraph (2) of subdivision (a) of Section 24211. If the claimant's identity cannot be verified, then the claimant shall produce sufficient evidence to establish, by a preponderance of the evidence, that it is more likely than not that the claimant is a qualified recipient. This evidence may include, but is not limited to, documentation of the individual's sterilization, sterilization recommendation, surgical consent forms, relevant court or institutional records, or a sworn statement by the survivor or another individual with personal knowledge of the sterilization. The board shall make a determination on the appeal within 30 days of the date of the appeal and notify the claimant of the decision. A claimant who is successful in an appeal shall receive compensation in accordance with subdivision (b).

(6) The board shall do an additional review of previously denied claims or appeals upon request by the claimant with a showing of good cause. A court ruling subsequent to the board's denial on an issue forming a basis of the board's denial is presumed to be good cause for an additional review. A claimant may request an additional review no later than January 1, 2025. A claimant who is found to be a qualified recipient pursuant to an additional review shall receive compensation in accordance with subdivision (b).

(b) The board shall award victim compensation to a qualified recipient pursuant to the following payment schedule:

(1) A claimant who is determined to be a qualified recipient by the board shall receive an initial payment within 60 days of the board's determination. This initial payment shall be calculated by dividing the funds described in subdivision (b) of Section 24212 for victim compensation payments by the anticipated number of qualified recipients who are expected to apply for compensation, as determined by the board, and then dividing that dollar amount in half.

(2) The board shall send a final payment to each qualified recipient in the amount of twenty thousand dollars (\$20,000).

(c) The board shall conclude the program after exhaustion of all appeals arising from the denial of an individual's application, but by no later than January 1, 2026.

(d) On or before January 1, 2025, the board shall report to the Joint Legislative Budget Committee on the outcome of the study conducted pursuant to paragraph (28) of subdivision (e) of Section 19.57 of the Budget Act of 2021.

(1) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2029, pursuant to Section 10231.5 of the Government Code.

(2) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(Amended by Stats. 2024, Ch. 997, Sec. 14. (AB 179) Effective September 30, 2024. Inoperative July 1, 2026, pursuant to Section 24218. Repealed as of January 1, 2027, pursuant to Section 24218.)

24214. (a) A qualified recipient may assign victim compensation to a trust established for the qualified recipient's benefit.

(b) (1) The board shall include a provision on the application for victim compensation under this program that a claimant is authorized to designate a beneficiary for the claimant's victim compensation.

(2) If the claimant dies during the pendency of the claimant's application, or after the board determines that the claimant is a qualified recipient, the board shall award the victim compensation to the named beneficiary. If the claimant did not name a beneficiary, then the victim compensation shall remain with the board for expenditure in accordance with subdivision (b) of Section 24213.

(c) An application may be made by an individual's legally authorized representative if the individual satisfies the criteria for a qualified recipient, as specified in subdivision (c) of Section 24210.

(Added by Stats. 2021, Ch. 77, Sec. 21. (AB 137) Effective July 16, 2021. Inoperative July 1, 2026, pursuant to Section 24218. Repealed as of January 1, 2027, pursuant to Section 24218.)

24215. The State Department of State Hospitals, the State Department of Developmental Services, and the Department of Corrections and Rehabilitation, in consultation with stakeholders, including at least one member and one advocate of those who were sterilized under California's eugenics laws between 1909 to 1979, inclusive, and of those who were sterilized without proper authorization while imprisoned in California state prisons after 1979, shall establish markers or plaques at designated sites that acknowledge the wrongful sterilization of thousands of vulnerable people under eugenics policies and the subsequent sterilization of people in California's women's prisons caused, in part, by the forgotten lessons of the harms of the eugenics movement.

(Added by Stats. 2021, Ch. 77, Sec. 21. (AB 137) Effective July 16, 2021. Inoperative July 1, 2026, pursuant to Section 24218. Repealed as of January 1, 2027, pursuant to Section 24218.)

24216. The board shall keep confidential and not disclose to the public any record pertaining to either an individual's application for victim compensation or the board's verification of the application, including, but not limited to, claimant names and demographic information submitted on the application. Public disclosure of aggregated claimant information or the annual report required under subdivision (b) of Section 24211 is not a violation of this section.

(Added by Stats. 2021, Ch. 77, Sec. 21. (AB 137) Effective July 16, 2021. Inoperative July 1, 2026, pursuant to Section 24218. Repealed as of January 1, 2027, pursuant to Section 24218.)

24217. (a) Notwithstanding any other law, the payment made to a qualified recipient pursuant to this program shall not be considered any of the following:

- (1) Taxable income for state tax purposes.
- (2) Income or resources for purposes of determining the eligibility for, or amount of, any benefits or assistance under any state or local means-tested program.
- (3) Income or resources in determining the eligibility for, or the amount of, any federal public benefits as provided by the Treatment of Certain Payments in Eugenics Compensation Act (42 U.S.C. Sec. 18501).
- (4) Community property for the purpose of determining property rights under the Family Code and Probate Code.

(b) Notwithstanding any other law, the payment made to a qualified recipient pursuant to this program shall not be subject to any of the following:

- (1) Enforcement of a money judgment under state law.
- (2) A money judgment in favor of the State Department of Health Care Services for any period of time in which federal law or guidance has not been issued by the federal Centers for Medicare and Medicaid Services requiring the department to recover funds from the payments pursuant to this chapter for reimbursement of qualifying Medi-Cal expenditures. Following the death of a qualified recipient, both of the following shall apply as long as the federal law or guidance has not been issued:
 - (A) The state shall not seek recovery pursuant to Section 14009.5 of the Welfare and Institutions Code of any amount of the payment under the state's Medicaid plan established under Title XIX of the Social Security Act.
 - (B) The state shall not file a claim for the payment under Section 529A(f) of the Internal Revenue Code.
- (3) The collection of owed child support.
- (4) The collection of court-ordered restitution, fees, or fines.

(Added by Stats. 2021, Ch. 77, Sec. 21. (AB 137) Effective July 16, 2021. Inoperative July 1, 2026, pursuant to Section 24218. Repealed as of January 1, 2027, pursuant to Section 24218.)

24218. This chapter shall become inoperative on July 1, 2026, and, as of January 1, 2027, is repealed.

(Added by Stats. 2024, Ch. 997, Sec. 15. (AB 179) Effective September 30, 2024. Repealed as of January 1, 2027, by its own provisions Note: Repeal affects Chapter 1.6, commencing with Section 24210.)