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AB-1563 Victim's compensation: claims: appeal. (2015-2016)

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Assembly Bill No. 1563

CHAPTER 121

An act to amend Section 13959 of the Government Code, relating to victim's compensation.

[Approved by Governor August 17, 2016. Filed with Secretary of State August 17, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1563, Rodriguez. Victim's compensation: claims: appeal.

Existing law generally provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation Board and requires the board to grant a hearing to an applicant who contests a staff recommendation to deny compensation in whole or part. Existing law requires decisions of the board to be made in writing.

This bill would require decisions of the board to be made within 6 months of the date the board received the appeal unless the board determines that there was insufficient information to make a decision. The bill additionally would require the board to notify the applicant in writing, within 6 months of the date the board received the appeal, if the board determines that there was insufficient information to make a decision. The bill would also make various conforming changes in this regard.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13959 of the Government Code is amended to read:

13959. (a) The board shall grant a hearing to an applicant who contests 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 appeal 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, witnesses, and other persons of the applicant's choice to provide assistance to the applicant during the hearing. However, the board shall 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) (1) 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 a 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.

(2) The board shall allow a service animal to accompany and support a witness while testifying at a hearing.

(f) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the appeals. 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 or conduct the hearing by telephone.

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

(h) The decisions of the board shall be in writing within six months of the date the board received the appeal unless the board determines that there was insufficient information to make a decision. If the board determines that there was insufficient information to make a decision, the board shall notify the applicant in writing within six months of the date the board received the appeal. Copies of the decisions shall be delivered to the applicant or to his or her representative personally or sent to him or her by mail.

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

(j) The board may order a reconsideration of all or part of a decision on its own motion, at its discretion, at any time.

(k) Evidence submitted after the board has denied a request for reconsideration shall not be considered unless the board chooses to reconsider its decision on its own motion.