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AB-56 Victim's compensation: emotional injuries. (2023-2024)

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Assembly Bill No. 56

CHAPTER 512

An act to amend Section 13955 of the Government Code, relating to victim's compensation, and making an appropriation therefor.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 56, Lackey. Victim's compensation: emotional injuries.

Existing law generally provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes, including emotional injuries where the crime was a violation of specified provisions.

This bill would expand eligibility for compensation to include emotional injuries from felony violations of, among other things, attempted murder, rape and sexual assault, mayhem, and stalking.

By expanding the authorization for the use of moneys in the continuously appropriated Restitution Fund, this bill would make an appropriation.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 13955 of the Government Code is amended 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) A person who is entitled to reimbursement for funeral, burial, or crime scene cleanup expenses pursuant to paragraph (9) or (10) of subdivision (a) of Section 13957.

(B) This paragraph applies without respect to any felon status of the victim.

(b) Either of the following conditions is met:

(1) The crime occurred in California. This paragraph shall apply only during those time periods during which the board determines that federal funds are available to the state for the compensation of victims of crime.

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

(A) A resident 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 any other 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 they knowingly and willingly participated.

(E) Caused by a person who commits vehicular manslaughter in violation of subdivision (b) of Section 191.5, subdivision (c) of Section 192, or Section 192.5 of the Penal Code.

(F) Caused by any party where a peace officer is operating a motor vehicle in an effort to apprehend a suspect, and the suspect is evading, fleeing, or otherwise attempting to elude the peace officer.

(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 236.1, 261, former Section 262, 271, 273a, 273d, 285, 286, 287, 288, former Section 288a, Section 288.5, 289, or 653.2 of, or subdivision (b) or (c) of Section 311.4 of, the Penal Code.

(B) Felony violations of subdivision (a) of Section 187 of, Section 203, 206, 207, 209, 209.5, 210, 220, 264.1, 269, 288.7, or 646.9 of, or any crime punishable pursuant to Section 667.61 or 667.71 of, or attempted violations of Section 187 of, the Penal Code.

(C) 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.

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

(E) Section 278 or 278.5 of the Penal Code, and criminal charges were filed. For purposes of this paragraph, the child, and not the nonoffending parent or other caretaker, shall be deemed the victim.

(4) Injury to, or the death of, a guide, signal, or service dog, as defined in Section 54.1 of the Civil Code, as a result of a violation of Section 600.2 or 600.5 of the Penal Code.

(5) Emotional injury to a victim who is a minor incurred as a direct result of the nonconsensual distribution of pictures or video of sexual conduct in which the minor appears.

(g) The injury or death has resulted or may result in pecuniary loss within the scope of compensation pursuant to Sections 13957 to 13957.7, inclusive.