

AMENDED IN ASSEMBLY SEPTEMBER 1, 2021

AMENDED IN ASSEMBLY AUGUST 30, 2021

AMENDED IN ASSEMBLY JULY 5, 2021

AMENDED IN SENATE MAY 20, 2021

AMENDED IN SENATE MARCH 25, 2021

AMENDED IN SENATE MARCH 4, 2021

**SENATE BILL**

**No. 299**

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**Introduced by Senator Leyva**

~~(Coauthor: Senator~~ **(Coauthors: Senators Kamlager and Laird)**

(Coauthors: Assembly Members *Bryan*, Chiu, Friedman, Cristina Garcia, *Grayson*, Lee, and Wicks)

February 3, 2021

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An act to amend Sections 13951, 13954, 13956, 13960, and 13963 of the Government Code, relating to victim compensation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 299, as amended, Leyva. Victim compensation: use of force by a law enforcement officer.

(1) Existing law 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. Existing law defines various terms for purposes of these provisions, including "crime," which includes any public offense

wherever it may take place that would constitute a misdemeanor or felony.

This bill would revise the definition of “crime” to include any public offense described above regardless of whether any person is arrested for, charged with, or convicted of the commission of the crime. The bill would also include in the definition of “crime” an incident occurring on or after January 1, 2022, in which an individual sustains serious bodily injury, as specified, or death as a result of a law enforcement officer’s use of force, regardless of whether the law enforcement officer is arrested for, charged with, or convicted of committing a crime. The bill would define “law enforcement officer” for these purposes. By expanding the types of crime for which compensation can be paid from a continuously appropriated fund, the bill would make an appropriation.

(2) Existing law requires every law enforcement and social service agency in the state to provide to the board or to a contracted victim center reports involving the crime or incident giving rise to a claim, for the specific purpose of determining the eligibility of a claim, except as provided.

This bill would prohibit a determination made by the board as to the eligibility of a victim or applicant for compensation from being used as evidence that, among other things, any person committed a crime. In the case of a claim based on a victim’s serious bodily injury or death that resulted from a law enforcement officer’s use of force, as described above, the bill would further prohibit the eligibility determination from being used as evidence in any action, disciplinary investigation, or proceeding relating to the employment or duties of the law enforcement officer, as provided.

(3) Existing law requires that a person be ineligible for compensation under specified conditions, including, among other things, if the board determines that denial of the claim for compensation is appropriate because of the nature of the victim’s involvement in the events leading to the crime or the involvement of the person whose injury or death gives rise to the application. Existing law requires the board to deny an application if it finds that the victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime.

This bill, in the case of a claim based on a victim’s serious bodily injury or death that resulted from a law enforcement officer’s use of force, as described above, would prohibit the board from denying an application based on certain circumstances, including the victim’s or

other applicant’s involvement in the crime, except as specified, the victim’s failure to cooperate, or the contents of a police report, or the lack thereof. The bill would, absent a police report, authorize the board to consider other evidence that a crime occurred, as specified. The bill, in the case of a claim based on a victim’s death as a result of a crime, would prohibit the board from denying an application based on the deceased victim’s involvement in the crime or the victim’s or derivative victim’s failure to cooperate, except as provided.

(4) Existing law authorizes the filing of a petition for a writ of mandate, as provided, in seeking judicial review of a final decision by the board.

This bill would prohibit a writ of mandate from being used as evidence that, among other things, any person committed a crime. In the case of a claim based on a victim’s serious bodily injury or death that resulted from a law enforcement officer’s use of force, as described above, the bill would further prohibit the writ from being used as evidence in any action, disciplinary investigation, or proceeding relating to the employment or duties of the law enforcement officer, as provided.

(5) Existing law requires that the California Victim Compensation Board be subrogated to the rights of the recipient to the extent of any compensation granted by the board.

This bill would specify that the above-described subrogation of the board applies to compensation by the board for a claim based on serious bodily injury or death that resulted from a law enforcement officer’s use of force, as specified.

(6) *This bill would incorporate additional changes to Section 13956 of the Government Code proposed by AB 1171 to be operative only if this bill and AB 1171 are enacted and this bill is enacted last.*

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 13951 of the Government Code is
- 2 amended to read:
- 3 13951. As used in this chapter, the following definitions shall
- 4 apply:
- 5 (a) “Board” means the California Victim Compensation Board.
- 6 (b) (1) “Crime” means a crime or public offense, wherever it
- 7 may take place, that would constitute a misdemeanor or a felony

1 if the crime had been committed in California by a competent  
2 adult, regardless of whether any person is arrested for, charged  
3 with, or convicted of committing the crime or public offense.

4 (2) “Crime” includes an act of terrorism, as defined in Section  
5 2331 of Title 18 of the United States Code, committed against a  
6 resident of the state, whether or not the act occurs within the state.

7 (3) “Crime” includes an incident occurring on or after January  
8 1, 2022, in which an individual sustains serious bodily injury, as  
9 defined in Section 243 of the Penal Code, or death as a result of a  
10 law enforcement officer’s use of force, regardless of whether the  
11 law enforcement officer is arrested for, charged with, or convicted  
12 of committing a crime.

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

15 (d) “Law enforcement” means every district attorney, municipal  
16 police department, sheriff’s department, district attorney’s office,  
17 county probation department, and social services agency, the  
18 Department of Justice, the Department of Corrections and  
19 Rehabilitation, the Division of Juvenile Justice, the Department  
20 of the California Highway Patrol, the police department of any  
21 campus of the University of California, California State University,  
22 or community college, and every agency of the State of California  
23 expressly authorized by statute to investigate or prosecute law  
24 violators.

25 (e) “Law enforcement officer” means a peace officer, as defined  
26 in Section 830 of the Penal Code.

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

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

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

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

1 (j) “Victim services provider” means an individual, whether  
2 paid or serving as a volunteer, who provides services to victims  
3 under the supervision of either an agency or organization that has  
4 a documented record of providing services to victims, or a law  
5 enforcement or prosecution agency.

6 SEC. 2. Section 13954 of the Government Code is amended  
7 to read:

8 13954. (a) The board shall verify with hospitals, physicians,  
9 law enforcement officials, or other interested parties involved, the  
10 treatment of the victim or derivative victim, circumstances of the  
11 crime, amounts paid or received by or for the victim or derivative  
12 victim, and any other pertinent information deemed necessary by  
13 the board. Verification information shall be returned to the board  
14 within 10 business days after a request for verification has been  
15 made by the board. Verification information shall be provided at  
16 no cost to the applicant, the board, or victim centers. When  
17 requesting verification information, the board shall certify that a  
18 signed authorization by the applicant is retained in the applicant’s  
19 file and that this certification constitutes actual authorization for  
20 the release of information, notwithstanding any other provision of  
21 law. If requested by a physician or mental health provider, the  
22 board shall provide a copy of the signed authorization for the  
23 release of information.

24 (b) (1) The applicant shall cooperate with the staff of the board  
25 or the victim center in the verification of the information contained  
26 in the application. Failure to cooperate shall be reported to the  
27 board, which, in its discretion, may reject the application solely  
28 on this ground.

29 (2) An applicant may be found to have failed to cooperate with  
30 the board if any of the following occur:

31 (A) The applicant has information, or there is information that  
32 the applicant may reasonably obtain, that is needed to process the  
33 application or supplemental claim, and the applicant failed to  
34 provide the information after being requested to do so by the board.  
35 The board shall take the applicant’s economic, psychosocial, and  
36 postcrime traumatic circumstances into consideration, and shall  
37 not unreasonably reject an application solely for failure to provide  
38 information.

39 (B) The applicant provided, or caused another to provide, false  
40 information regarding the application or supplemental claim.

1 (C) The applicant refused to apply for other benefits potentially  
2 available to the applicant from other sources besides the board  
3 including, but not limited to, worker's compensation, state  
4 disability insurance, social security benefits, and unemployment  
5 insurance.

6 (D) The applicant threatened violence or bodily harm to a  
7 member of the board or staff.

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

18 (d) (1) Notwithstanding Section 827 of the Welfare and  
19 Institutions Code or any other provision of law, every law  
20 enforcement and social service agency in the state shall provide  
21 to the board or to victim centers that have contracts with the board  
22 pursuant to subdivision (c), upon request, a complete copy of the  
23 law enforcement report and any supplemental reports involving  
24 the crime or incident giving rise to a claim, a copy of a petition  
25 filed in a juvenile court proceeding, reports of the probation officer,  
26 and any other document made available to the probation officer  
27 or to the judge, referee, or other hearing officer, for the specific  
28 purpose of determining the eligibility of a claim filed pursuant to  
29 this chapter.

30 (2) The board and victim centers receiving records pursuant to  
31 this subdivision may not disclose a document that personally  
32 identifies a minor to anyone other than the minor who is so  
33 identified, the minor's custodial parent or guardian, the attorneys  
34 for those parties, and any other persons that may be designated by  
35 court order. Any information received pursuant to this section shall  
36 be received in confidence for the limited purpose for which it was  
37 provided and may not be further disseminated. A violation of this  
38 subdivision is a misdemeanor punishable by a fine not to exceed  
39 five hundred dollars (\$500).

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

5 (e) Notwithstanding any other provision of law, every state  
6 agency, upon receipt of a copy of a release signed in accordance  
7 with the Information Practices Act of 1977 (Chapter 1  
8 (commencing with Section 1798) of Title 1.8 of Part 4 of Division  
9 3 of the Civil Code) by the applicant or other authorized  
10 representative, shall provide to the board or victim center the  
11 information necessary to complete the verification of an application  
12 filed pursuant to this chapter.

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

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

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

25 (i) Any county social worker acting as the applicant for a child  
26 victim or elder abuse victim shall not be required to provide  
27 personal identification, including, but not limited to, the applicant's  
28 date of birth or social security number. County social workers  
29 acting in this capacity shall not be required to sign a promise of  
30 repayment to the board.

31 (j) Notwithstanding any other provision of statute, administrative  
32 rule, local ordinance, or other law, a determination made by the  
33 board as to the eligibility of a victim or applicant for compensation  
34 shall be used for the limited purposes described in this chapter, or  
35 in a proceeding related to determining the amount of restitution a  
36 person who has been convicted of a crime owes, pursuant to  
37 Section 1202.4 of the Penal Code. A determination of eligibility  
38 made by the board shall not otherwise be admissible as evidence  
39 that any person committed a crime or is liable for a victim's injury  
40 or death in any civil action or proceeding, in any criminal action

1 or proceeding including pretrial motions and hearings and  
2 postconviction motions and hearings, in any trial or hearing of a  
3 juvenile for a criminal offense, whether heard in juvenile or adult  
4 court, or in any court of law. This subdivision shall not be  
5 construed to limit or in any way affect the board's subrogation and  
6 recovery rights under Section 13963 or 13966, and shall not be  
7 construed to limit or in any way affect the ability of a court to  
8 consider the amount of assistance provided by the Restitution Fund  
9 to a victim in a determination relating to a restitution order  
10 following a conviction, in accordance with Section 1202.4 of the  
11 Penal Code.

12 (k) Notwithstanding any other provision of statute,  
13 administrative rule, local ordinance, or other law, for claims based  
14 on a victim's serious bodily injury or death that resulted from a  
15 law enforcement officer's use of force, as provided in Section  
16 13951, a determination made by the board as to the eligibility of  
17 a victim or applicant for compensation shall not be admissible as  
18 evidence in any action, disciplinary investigation, or proceeding  
19 relating to the employment or duties of the law enforcement officer,  
20 nor used as evidence to support any punitive action or denial of  
21 promotion of a law enforcement officer.

22 SEC. 3. Section 13956 of the Government Code is amended  
23 to read:

24 13956. Notwithstanding Section 13955, a person shall not be  
25 eligible for compensation under the following conditions:

26 (a) An application may be denied, in whole or in part, if the  
27 board finds that denial is appropriate because of the nature of the  
28 victim's or other applicant's involvement in the events leading to  
29 the crime, or the involvement of the person whose injury or death  
30 gives rise to the application.

31 (1) Factors that may be considered in determining whether the  
32 victim or derivative victim was involved in the events leading to  
33 the qualifying crime include, but are not limited to:

34 (A) The victim or derivative victim initiated the qualifying  
35 crime, or provoked or aggravated the suspect into initiating the  
36 qualifying crime.

37 (B) The qualifying crime was a reasonably foreseeable  
38 consequence of the conduct of the victim or derivative victim.

39 (C) The victim or derivative victim was committing a crime  
40 that could be charged as a felony and reasonably lead to ~~them~~ *the*



1 *victim* being victimized. However, committing a crime shall not  
2 be considered involvement if the victim's injury or death occurred  
3 as a direct result of a crime committed in violation of Section 261,  
4 262, or 273.5 of, or for a crime of unlawful sexual intercourse with  
5 a minor in violation of subdivision (d) of Section 261.5 of, the  
6 Penal Code.

7 (2) If the victim is determined to have been involved in the  
8 events leading to the qualifying crime, factors that may be  
9 considered to mitigate or overcome involvement include, but are  
10 not limited to:

11 (A) The victim's injuries were significantly more serious than  
12 reasonably could have been expected based on the victim's level  
13 of involvement.

14 (B) A third party interfered in a manner not reasonably  
15 foreseeable by the victim or derivative victim.

16 (C) The board shall consider the victim's age, physical  
17 condition, and psychological state, as well as any compelling health  
18 and safety concerns, in determining whether the application should  
19 be denied pursuant to this section. The application of a derivative  
20 victim of domestic violence under 18 years of age or derivative  
21 victim of trafficking under 18 years of age shall not be denied on  
22 the basis of the denial of the victim's application under this  
23 subdivision.

24 (3) Notwithstanding paragraphs (1) and (2), and except as  
25 provided in paragraphs (4) and (5), for a claim based on a victim's  
26 serious bodily injury or death that resulted from a law enforcement  
27 officer's use of force, as provided in Section 13951, the board shall  
28 not deny the application based on the victim's or other applicant's  
29 involvement in the qualifying crime that gave rise to the claim.

30 (4) Notwithstanding paragraph (3), for a claim based on a  
31 victim's serious bodily injury that resulted from a law enforcement  
32 officer's use of force, as provided in Section 13951, the board may  
33 deny the application based on the victim's involvement if the victim  
34 is convicted of a violent crime as defined in Section 667.5 of the  
35 Penal Code, or of a crime that resulted in serious bodily injury, as  
36 defined in Section 243 of the Penal Code, to or death of another  
37 person, and the crime occurred at the time and location of the  
38 incident on which the claim is based. The board shall not consider  
39 a claim for compensation while charges are pending alleging that  
40 a victim subject to this paragraph committed such a crime. A victim

1 or applicant subject to this paragraph may apply for compensation  
2 pursuant to this chapter at any time for any expense, but the award  
3 of that compensation shall not be granted until the charges are no  
4 longer pending against the victim. If the victim is deceased, charges  
5 shall not be considered pending against the victim for the purposes  
6 of this paragraph.

7 (5) Notwithstanding paragraphs (3) and (6), for a claim based  
8 on a victim's death that resulted from a law enforcement officer's  
9 use of force, as provided in Section 13951, the board may deny  
10 an application based on the victim's involvement in the qualifying  
11 crime that gave rise to the claim if there is clear and convincing  
12 evidence that the deceased victim committed a crime during which  
13 the deceased victim personally inflicted serious bodily injury, as  
14 defined in Section 243 of the Penal Code, on another person or  
15 personally killed another person at the time and location of the  
16 incident on which the claim is based.

17 (6) Notwithstanding paragraphs (1) and (2), and except as  
18 provided in paragraph (5), for a claim based on a victim's death  
19 as a result of a crime, the board shall not deny the application, in  
20 whole or in part, based on the deceased victim's involvement in  
21 the crime that gave rise to the claim.

22 (b) (1) An application shall be denied if the board finds that  
23 the victim or, if compensation is sought by, or on behalf of, a  
24 derivative victim, either the victim or derivative victim failed to  
25 cooperate reasonably with a law enforcement agency in the  
26 apprehension and conviction of a criminal committing the crime.  
27 In determining whether cooperation has been reasonable, the board  
28 shall consider the victim's or derivative victim's age, physical  
29 condition, and psychological state, cultural or linguistic barriers,  
30 any compelling health and safety concerns, including, but not  
31 limited to, a reasonable fear of retaliation or harm that would  
32 jeopardize the well-being of the victim or the victim's family or  
33 the derivative victim or the derivative victim's family, and giving  
34 due consideration to the degree of cooperation of which the victim  
35 or derivative victim is capable in light of the presence of any of  
36 these factors. Victims of domestic violence shall not be determined  
37 to have failed to cooperate based on ~~their~~ *the victim's* conduct with  
38 law enforcement at the scene of the crime. Lack of cooperation  
39 shall also not be found solely because a victim of sexual assault,

1 domestic violence, or human trafficking delayed reporting the  
2 qualifying crime.

3 (2) Notwithstanding paragraph (1), for a claim based on a  
4 victim's serious bodily injury or death that resulted from a law  
5 enforcement officer's use of force, as provided in Section 13951,  
6 the board shall not deny the application based on the victim's  
7 failure to cooperate.

8 (3) Notwithstanding paragraph (1), for a claim based on a  
9 victim's death as a result of a crime, the board shall not deny the  
10 application based on a victim's or derivative victim's failure to  
11 cooperate.

12 (4) An application for a claim based on domestic violence shall  
13 not be denied solely because a police report was not made by the  
14 victim. The board shall adopt guidelines that allow the board to  
15 consider and approve applications for assistance based on domestic  
16 violence relying upon evidence other than a police report to  
17 establish that a domestic violence crime has occurred. Factors  
18 evidencing that a domestic violence crime has occurred may  
19 include, but are not limited to, medical records documenting  
20 injuries consistent with allegations of domestic violence, mental  
21 health records, or that the victim has obtained a permanent  
22 restraining order.

23 (5) An application for a claim based on a sexual assault shall  
24 not be denied solely because a police report was not made by the  
25 victim. The board shall adopt guidelines that allow it to consider  
26 and approve applications for assistance based on a sexual assault  
27 relying upon evidence other than a police report to establish that  
28 a sexual assault crime has occurred. Factors evidencing that a  
29 sexual assault crime has occurred may include, but are not limited  
30 to, medical records documenting injuries consistent with allegations  
31 of sexual assault, mental health records, or that the victim received  
32 a sexual assault examination.

33 (6) An application for a claim based on human trafficking as  
34 defined in Section 236.1 of the Penal Code shall not be denied  
35 solely because no police report was made by the victim. The board  
36 shall adopt guidelines that allow the board to consider and approve  
37 applications for assistance based on human trafficking relying  
38 upon evidence other than a police report to establish that a human  
39 trafficking crime as defined in Section 236.1 of the Penal Code  
40 has occurred. That evidence may include any reliable corroborating

1 information approved by the board, including, but not limited to,  
2 the following:

3 (A) A law enforcement agency endorsement issued pursuant to  
4 Section 236.5 of the Penal Code.

5 (B) A human trafficking caseworker, as identified in Section  
6 1038.2 of the Evidence Code, has attested by affidavit that the  
7 individual was a victim of human trafficking.

8 (7) (A) An application for a claim by a military personnel victim  
9 based on a sexual assault by another military personnel shall not  
10 be denied solely because it was not reported to a superior officer  
11 or law enforcement at the time of the crime.

12 (B) Factors that the board shall consider for purposes of  
13 determining if a claim qualifies for compensation include, but are  
14 not limited to, the evidence of the following:

15 (i) Restricted or unrestricted reports to a military victim  
16 advocate, sexual assault response coordinator, chaplain, attorney,  
17 or other military personnel.

18 (ii) Medical or physical evidence consistent with sexual assault.

19 (iii) A written or oral report from military law enforcement or  
20 a civilian law enforcement agency concluding that a sexual assault  
21 crime was committed against the victim.

22 (iv) A letter or other written statement from a sexual assault  
23 counselor, as defined in Section 1035.2 of the Evidence Code,  
24 licensed therapist, or mental health counselor, stating that the  
25 victim is seeking services related to the allegation of sexual assault.

26 (v) A credible witness to whom the victim disclosed the details  
27 that a sexual assault crime occurred.

28 (vi) A restraining order from a military or civilian court against  
29 the perpetrator of the sexual assault.

30 (vii) Other behavior by the victim consistent with sexual assault.

31 (C) For purposes of this subdivision, the sexual assault at issue  
32 shall have occurred during military service, including deployment.

33 (D) For purposes of this subdivision, the sexual assault may  
34 have been committed off base.

35 (E) For purposes of this subdivision, a “perpetrator” means an  
36 individual who is any of the following at the time of the sexual  
37 assault:

38 (i) An active duty military personnel from the United States  
39 Army, Navy, Marine Corps, Air Force, or Coast Guard.

1 (ii) A civilian employee of any military branch specified in  
2 clause (i), military base, or military deployment.

3 (iii) A contractor or agent of a private military or private security  
4 company.

5 (iv) A member of the California National Guard.

6 (F) For purposes of this subdivision, “sexual assault” means an  
7 offense included in Section 261, 262, 264.1, 286, 287, formerly  
8 288a, or Section 289 of the Penal Code, as of the date the act that  
9 added this paragraph was enacted.

10 (c) Notwithstanding any provision of this section, for  
11 applications based on a victim’s serious bodily injury or death that  
12 resulted from a law enforcement officer’s use of force as provided  
13 in Section 13951, the board shall not deny an application, in whole  
14 or in part, based solely upon the contents of a police report, or  
15 because a police report was not made, or based on whether any  
16 suspect was arrested or charged with the crime that gave rise to  
17 the claim. The board shall consider other evidence to establish that  
18 a qualifying crime occurred. Factors evidencing that a qualifying  
19 crime occurred may include, but are not limited to, all of the  
20 following:

21 (1) Medical records documenting injuries consistent with the  
22 allegation of the qualifying crime.

23 (2) A written statement from a victim services provider stating  
24 that the victim is seeking services related to the qualifying crime.

25 (3) A permanent restraining order or protective order issued by  
26 a court to protect or separate the victim or derivative victim from  
27 the person who is responsible for the qualifying crime.

28 (4) A statement from a licensed medical provider, physician’s  
29 assistant, nurse practitioner, or other person licensed to provide  
30 medical or mental health care documenting that the victim  
31 experienced physical, mental, or emotional injury as a result of  
32 the qualifying crime.

33 (5) A written or oral report from a law enforcement agency  
34 stating that a qualifying crime was committed against the victim.

35 (6) Evidence that the qualifying crime was reported under  
36 Section 12525.2 to the Department of Justice as an incident in  
37 which the use of force by a law enforcement officer against a  
38 civilian resulted in serious bodily injury or death.

1 (d) A person making a statement or report regarding a qualifying  
 2 crime under paragraph (2), (4), or (5) of subdivision (c) may  
 3 consider any information or evidence they deem relevant.

4 (e) (1) Notwithstanding Section 13955, no person who is  
 5 convicted of a violent felony listed in subdivision (c) of Section  
 6 667.5 of the Penal Code may be granted compensation until that  
 7 person has been discharged from probation or has been released  
 8 from a correctional institution and has been discharged from parole,  
 9 or has been discharged from postrelease community supervision  
 10 or mandatory supervision, if any, for that violent crime. In no case  
 11 shall compensation be granted to an applicant pursuant to this  
 12 chapter during any period of time the applicant is held in a  
 13 correctional institution, or while an applicant is required to register  
 14 as a sex offender pursuant to Section 290 of the Penal Code.

15 (2) A person who has been convicted of a violent felony listed  
 16 in subdivision (c) of Section 667.5 of the Penal Code may apply  
 17 for compensation pursuant to this chapter at any time, but the award  
 18 of that compensation may not be considered until the applicant  
 19 meets the requirements for compensation set forth in paragraph  
 20 (1).

21 *SEC. 3.5. Section 13956 of the Government Code is amended*  
 22 *to read:*

23 13956. Notwithstanding Section 13955, a person shall not be  
 24 eligible for compensation under the following conditions:

25 (a) An application may be denied, in whole or in part, if the  
 26 board finds that denial is appropriate because of the nature of the  
 27 victim’s or other applicant’s involvement in the events leading to  
 28 the crime, or the involvement of the person whose injury or death  
 29 gives rise to the application.

30 (1) Factors that may be considered in determining whether the  
 31 victim or derivative victim was involved in the events leading to  
 32 the qualifying crime include, but are not limited to:

33 (A) The victim or derivative victim initiated the qualifying  
 34 crime, or provoked or aggravated the suspect into initiating the  
 35 qualifying crime.

36 (B) The qualifying crime was a reasonably foreseeable  
 37 consequence of the conduct of the victim or derivative victim.

38 (C) The victim or derivative victim was committing a crime  
 39 that could be charged as a felony and reasonably lead to ~~him or~~  
 40 ~~her~~ *the victim* being victimized. However, committing a crime

1 shall not be considered involvement if the victim’s injury or death  
2 occurred as a direct result of a crime committed in violation of  
3 Section 261, ~~262, or 273.5~~ 273.5, or former Section 262 of, or for  
4 a crime of unlawful sexual intercourse with a minor in violation  
5 of subdivision (d) of Section 261.5 of, the Penal Code.

6 (2) If the victim is determined to have been involved in the  
7 events leading to the qualifying crime, factors that may be  
8 considered to mitigate or overcome involvement include, but are  
9 not limited to:

10 (A) The victim’s injuries were significantly more serious than  
11 reasonably could have been expected based on the victim’s level  
12 of involvement.

13 (B) A third party interfered in a manner not reasonably  
14 foreseeable by the victim or derivative victim.

15 (C) The board shall consider the victim’s age, physical  
16 condition, and psychological state, as well as any compelling health  
17 and safety concerns, in determining whether the application should  
18 be denied pursuant to this section. The application of a derivative  
19 victim of domestic violence under 18 years of age or derivative  
20 victim of trafficking under 18 years of age shall not be denied on  
21 the basis of the denial of the victim’s application under this  
22 subdivision.

23 (3) *Notwithstanding paragraphs (1) and (2), and except as*  
24 *provided in paragraphs (4) and (5), for a claim based on a victim’s*  
25 *serious bodily injury or death that resulted from a law enforcement*  
26 *officer’s use of force, as provided in Section 13951, the board shall*  
27 *not deny the application based on the victim’s or other applicant’s*  
28 *involvement in the qualifying crime that gave rise to the claim.*

29 (4) *Notwithstanding paragraph (3), for a claim based on a*  
30 *victim’s serious bodily injury that resulted from a law enforcement*  
31 *officer’s use of force, as provided in Section 13951, the board may*  
32 *deny the application based on the victim’s involvement if the victim*  
33 *is convicted of a violent crime as defined in Section 667.5 of the*  
34 *Penal Code, or of a crime that resulted in serious bodily injury,*  
35 *as defined in Section 243 of the Penal Code, to or death of another*  
36 *person, and the crime occurred at the time and location of the*  
37 *incident on which the claim is based. The board shall not consider*  
38 *a claim for compensation while charges are pending alleging that*  
39 *a victim subject to this paragraph committed such a crime. A victim*  
40 *or applicant subject to this paragraph may apply for compensation*

1 pursuant to this chapter at any time for any expense, but the award  
2 of that compensation shall not be granted until the charges are no  
3 longer pending against the victim. If the victim is deceased, charges  
4 shall not be considered pending against the victim for the purposes  
5 of this paragraph.

6 (5) Notwithstanding paragraphs (3) and (6), for a claim based  
7 on a victim's death that resulted from a law enforcement officer's  
8 use of force, as provided in Section 13951, the board may deny an  
9 application based on the victim's involvement in the qualifying  
10 crime that gave rise to the claim if there is clear and convincing  
11 evidence that the deceased victim committed a crime during which  
12 the deceased victim personally inflicted serious bodily injury, as  
13 defined in Section 243 of the Penal Code, on another person or  
14 personally killed another person at the time and location of the  
15 incident on which the claim is based.

16 (6) Notwithstanding paragraphs (1) and (2), and except as  
17 provided in paragraph (5), for a claim based on a victim's death  
18 as a result of a crime, the board shall not deny the application, in  
19 whole or in part, based on the deceased victim's involvement in  
20 the crime that gave rise to the claim.

21 (b) (1) An application shall be denied if the board finds that  
22 the victim or, if compensation is sought by, or on behalf of, a  
23 derivative victim, either the victim or derivative victim failed to  
24 cooperate reasonably with a law enforcement agency in the  
25 apprehension and conviction of a criminal committing the crime.  
26 In determining whether cooperation has been reasonable, the board  
27 shall consider the victim's or derivative victim's age, physical  
28 condition, and psychological state, cultural or linguistic barriers,  
29 any compelling health and safety concerns, including, but not  
30 limited to, a reasonable fear of retaliation or harm that would  
31 jeopardize the well-being of the victim or the victim's family or  
32 the derivative victim or the derivative victim's family, and giving  
33 due consideration to the degree of cooperation of which the victim  
34 or derivative victim is capable in light of the presence of any of  
35 these factors. ~~A victim~~ *Victims* of domestic violence shall not be  
36 determined to have failed to cooperate based on ~~his or her~~ *the*  
37 *victim's* conduct with law enforcement at the scene of the crime.  
38 Lack of cooperation shall also not be found solely because a victim  
39 of sexual assault, domestic violence, or human trafficking delayed  
40 reporting the qualifying crime.



1 (2) *Notwithstanding paragraph (1), for a claim based on a*  
2 *victim's serious bodily injury or death that resulted from a law*  
3 *enforcement officer's use of force, as provided in Section 13951,*  
4 *the board shall not deny the application based on the victim's*  
5 *failure to cooperate.*

6 (3) *Notwithstanding paragraph (1), for a claim based on a*  
7 *victim's death as a result of a crime, the board shall not deny the*  
8 *application based on a victim's or derivative victim's failure to*  
9 *cooperate.*

10 ~~(2)~~

11 (4) An application for a claim based on domestic violence shall  
12 not be denied solely because a police report was not made by the  
13 victim. The board shall adopt guidelines that allow the board to  
14 consider and approve applications for assistance based on domestic  
15 violence relying upon evidence other than a police report to  
16 establish that a domestic violence crime has occurred. Factors  
17 evidencing that a domestic violence crime has occurred may  
18 include, but are not limited to, medical records documenting  
19 injuries consistent with allegations of domestic violence, mental  
20 health records, or that the victim has obtained a permanent  
21 restraining order.

22 ~~(3)~~

23 (5) An application for a claim based on a sexual assault shall  
24 not be denied solely because a police report was not made by the  
25 victim. The board shall adopt guidelines that allow it to consider  
26 and approve applications for assistance based on a sexual assault  
27 relying upon evidence other than a police report to establish that  
28 a sexual assault crime has occurred. Factors evidencing that a  
29 sexual assault crime has occurred may include, but are not limited  
30 to, medical records documenting injuries consistent with allegations  
31 of sexual assault, mental health records, or that the victim received  
32 a sexual assault examination.

33 ~~(4)~~

34 (6) An application for a claim based on human trafficking as  
35 defined in Section 236.1 of the Penal Code shall not be denied  
36 solely because ~~no~~ a police report was *not* made by the victim. The  
37 board shall adopt guidelines that allow the board to consider and  
38 approve applications for assistance based on human trafficking  
39 relying upon evidence other than a police report to establish that  
40 a human trafficking crime ~~as defined in Section 236.1 of the Penal~~

1 Code has occurred. That evidence may include any reliable  
2 corroborating information approved by the board, including, but  
3 not limited to, the following:

4 (A) ~~A Law Enforcement Agency Endorsement~~ *law enforcement*  
5 *agency endorsement* issued pursuant to Section ~~236.2~~ 236.5 of the  
6 Penal Code.

7 (B) A human trafficking caseworker, as identified in Section  
8 1038.2 of the Evidence Code, has attested by affidavit that the  
9 individual was a victim of human trafficking.

10 ~~(5)~~

11 (7) (A) An application for a claim by a military personnel victim  
12 based on a sexual assault by another military personnel shall not  
13 be denied solely because it was not reported to a superior officer  
14 or law enforcement at the time of the crime.

15 (B) Factors that the board shall consider for purposes of  
16 determining if a claim qualifies for compensation include, but are  
17 not limited to, the evidence of the following:

18 (i) Restricted or unrestricted reports to a military victim  
19 advocate, sexual assault response coordinator, chaplain, attorney,  
20 or other military personnel.

21 (ii) Medical or physical evidence consistent with sexual assault.

22 (iii) A written or oral report from military law enforcement or  
23 a civilian law enforcement agency concluding that a sexual assault  
24 crime was committed against the victim.

25 (iv) A letter or other written statement from a sexual assault  
26 counselor, as defined in Section 1035.2 of the Evidence Code,  
27 licensed therapist, or mental health counselor, stating that the  
28 victim is seeking services related to the allegation of sexual assault.

29 (v) A credible witness to whom the victim disclosed the details  
30 that a sexual assault crime occurred.

31 (vi) A restraining order from a military or civilian court against  
32 the perpetrator of the sexual assault.

33 (vii) Other behavior by the victim consistent with sexual assault.

34 (C) For purposes of this subdivision, the sexual assault at issue  
35 shall have occurred during military service, including deployment.

36 (D) For purposes of this subdivision, the sexual assault may  
37 have been committed off base.

38 (E) For purposes of this subdivision, a “perpetrator” means an  
39 individual who is any of the following at the time of the sexual  
40 assault:

1 (i) An active duty military personnel from the United States  
2 Army, Navy, Marine Corps, Air Force, or Coast Guard.

3 (ii) A civilian employee of any military branch specified in  
4 clause (i), military base, or military deployment.

5 (iii) A contractor or agent of a private military or private security  
6 company.

7 (iv) A member of the California National Guard.

8 (F) For purposes of this subdivision, “sexual assault” means an  
9 offense included in Section 261, ~~262~~, 264.1, 286, 287, formerly  
10 288a, or Section 289 of the Penal Code, as of the date the act that  
11 added this paragraph was enacted: January 1, 2015.

12 (c) *Notwithstanding any provision of this section, for*  
13 *applications based on a victim’s serious bodily injury or death*  
14 *that resulted from a law enforcement officer’s use of force as*  
15 *provided in Section 13951, the board shall not deny an application,*  
16 *in whole or in part, based solely upon the contents of a police*  
17 *report, or because a police report was not made, or based on*  
18 *whether any suspect was arrested or charged with the crime that*  
19 *gave rise to the claim. The board shall consider other evidence to*  
20 *establish that a qualifying crime occurred. Factors evidencing*  
21 *that a qualifying crime occurred may include, but are not limited*  
22 *to, all of the following:*

23 (1) *Medical records documenting injuries consistent with the*  
24 *allegation of the qualifying crime.*

25 (2) *A written statement from a victim services provider stating*  
26 *that the victim is seeking services related to the qualifying crime.*

27 (3) *A permanent restraining order or protective order issued*  
28 *by a court to protect or separate the victim or derivative victim*  
29 *from the person who is responsible for the qualifying crime.*

30 (4) *A statement from a licensed medical provider, physician’s*  
31 *assistant, nurse practitioner, or other person licensed to provide*  
32 *medical or mental health care documenting that the victim*  
33 *experienced physical, mental, or emotional injury as a result of*  
34 *the qualifying crime.*

35 (5) *A written or oral report from a law enforcement agency*  
36 *stating that a qualifying crime was committed against the victim.*

37 (6) *Evidence that the qualifying crime was reported under*  
38 *Section 12525.2 to the Department of Justice as an incident in*  
39 *which the use of force by a law enforcement officer against a*  
40 *civilian resulted in serious bodily injury or death.*

1 (d) A person making a statement or report regarding a  
2 qualifying crime under paragraph (2), (4), or (5) of subdivision  
3 (c) may consider any information or evidence they deem relevant.

4 (e)

5 (e) (1) Notwithstanding Section 13955, ~~no~~ a person who is  
6 convicted of a violent felony listed in subdivision (c) of Section  
7 667.5 of the Penal Code ~~may~~ shall not be granted compensation  
8 until that person has been discharged from probation or has been  
9 released from a correctional institution and has been discharged  
10 from parole, or has been discharged from postrelease community  
11 supervision or mandatory supervision, if any, for that violent crime.  
12 ~~In no case shall compensation~~ Compensation shall not be granted  
13 to an applicant pursuant to this chapter during any period of time  
14 the applicant is held in a correctional ~~institution~~, institution or  
15 while an applicant is required to register as a sex offender pursuant  
16 to Section 290 of the Penal Code.

17 (2) A person who has been convicted of a violent felony listed  
18 in subdivision (c) of Section 667.5 of the Penal Code may apply  
19 for compensation pursuant to this chapter at any time, but the award  
20 of that compensation may not be considered until the applicant  
21 meets the requirements for compensation set forth in paragraph  
22 (1).

23 SEC. 4. Section 13960 of the Government Code is amended  
24 to read:

25 13960. (a) Judicial review of a final decision made pursuant  
26 to this chapter may be had by filing a petition for a writ of mandate  
27 in accordance with Section 1094.5 of the Code of Civil Procedure.  
28 The right to petition shall not be affected by the failure to seek  
29 reconsideration before the board. The petition shall be filed as  
30 follows:

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

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

38 (3) Where a timely request for reconsideration is filed and  
39 granted by the board, or reconsideration is ordered by the board,  
40 within 30 calendar days of personal delivery or within 60 calendar

1 days of the mailing of the final decision on the reconsidered  
2 application.

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

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

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

17 (c) (1) Notwithstanding any other provision of statute,  
18 administrative rule, local ordinance, or other law, a writ of mandate  
19 issued pursuant to this section shall apply for the limited purposes  
20 of compelling the board to award compensation pursuant to this  
21 chapter, or in a proceeding related to determining the amount of  
22 restitution a person who has been convicted of the crime owes,  
23 pursuant to Section 1202.4 of the Penal Code. A writ of mandate  
24 issued pursuant to this section shall not otherwise be admissible  
25 as evidence that any person committed a crime or is liable for a  
26 victim's injury or death in any civil action or proceeding, in any  
27 criminal action or proceeding including pretrial motions and  
28 hearings and postconviction motions and hearings in criminal  
29 proceedings, in any trial or hearing of a juvenile for a criminal  
30 offense, whether heard in juvenile or adult court, or in any court  
31 of law. This subdivision shall not be construed to limit or in any  
32 way affect the board's subrogation and recovery rights under  
33 Section 13963 or 13966, and shall not be construed to limit or in  
34 any way affect the ability of a court to consider the amount of  
35 assistance provided by the Restitution Fund to a victim in a  
36 determination relating to a restitution order following a conviction,  
37 in accordance with Section 1202.4 of the Penal Code.

38 (2) Notwithstanding any other provision of statute,  
39 administrative rule, local ordinance, or other law, for a claim based  
40 on a victim's serious bodily injury or death that resulted from a

1 law enforcement officer's use of force, as provided in Section  
2 13951, a writ of mandate issued pursuant to this section shall not  
3 be admissible as evidence in any action, disciplinary investigation,  
4 or proceeding relating to the employment or duties of the law  
5 enforcement officer, nor used as evidence to support any punitive  
6 action or denial of promotion of a law enforcement officer.

7 SEC. 5. Section 13963 of the Government Code is amended  
8 to read:

9 13963. (a) (1) The board shall be subrogated to the rights of  
10 the recipient to the extent of any compensation granted by the  
11 board. The subrogation rights shall be against the perpetrator of  
12 the crime or any person liable for the losses suffered as a direct  
13 result of the crime which was the basis for receipt of compensation,  
14 including an insurer held liable in accordance with the provision  
15 of a policy of insurance issued pursuant to Section 11580.2 of the  
16 Insurance Code.

17 (2) This section applies to compensation by the board for a claim  
18 based on serious bodily injury or death that resulted from a law  
19 enforcement officer's use of force, as provided in paragraph (3)  
20 of subdivision (a) of Section 13951.

21 (b) The board shall also be entitled to a lien on any judgment,  
22 award, or settlement in favor of or on behalf of the recipient for  
23 losses suffered as a direct result of the crime that was the basis for  
24 receipt of compensation in the amount of the compensation granted  
25 by the board. The board may recover this amount in a separate  
26 action, or may intervene in an action brought by or on behalf of  
27 the recipient. If a claim is filed within one year of the date of  
28 recovery, the board shall pay 25 percent of the amount of the  
29 recovery that is subject to a lien on the judgment, award, or  
30 settlement, to the recipient responsible for recovery if the recipient  
31 notified the board of the action prior to receiving any recovery.  
32 The remaining amount, and any amount not claimed within one  
33 year pursuant to this section, shall be deposited in the Restitution  
34 Fund.

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

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

10 (e) (1) If the recipient brings an action or asserts a claim for  
11 damages against the person or persons liable for the injury or death  
12 giving rise to an award by the board under this chapter, notice of  
13 the institution of legal proceedings, notice of all hearings,  
14 conferences, and proceedings, and notice of settlement shall be  
15 given to the board in Sacramento except in cases where the board  
16 specifies that notice shall be given to the Attorney General. Notice  
17 of the institution of legal proceedings shall be given to the board  
18 within 30 days of filing the action. All notices shall be given by  
19 the attorney employed to bring the action for damages or by the  
20 recipient if no attorney is employed.

21 (2) Notice shall include all of the following:

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

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

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

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

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

37 (f) The board shall pay the county probation department or other  
38 county agency responsible for collection of funds owed to the  
39 Restitution Fund under Section 13967, as operative on or before  
40 September 28, 1994, Section 1202.4 of the Penal Code, Section

1 1203.04 of the Penal Code, as operative on or before August 2,  
 2 1995, or Section 730.6 of the Welfare and Institutions Code, 10  
 3 percent of the funds so owed and collected by the county agency  
 4 and deposited in the Restitution Fund. This payment shall be made  
 5 only when the funds are deposited in the Restitution Fund within  
 6 45 days of the end of the month in which the funds are collected.  
 7 Receiving 10 percent of the moneys collected as being owed to  
 8 the Restitution Fund shall be considered an incentive for collection  
 9 efforts and shall be used for furthering these collection efforts.  
 10 The 10-percent rebates shall be used to augment the budgets for  
 11 the county agencies responsible for collection of funds owed to  
 12 the Restitution Fund, as provided in Section 13967, as operative  
 13 on or before September 28, 1994, Section 1202.4 of the Penal  
 14 Code, Section 1203.04 of the Penal Code, operative on or before  
 15 August 2, 1995, or Section 730.6 of the Welfare and Institutions  
 16 Code. The 10-percent rebates shall not be used to supplant county  
 17 funding.

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

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

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

39 *SEC. 6. Section 3.5 of this bill incorporates amendments to*  
 40 *Section 13956 of the Government Code proposed by both this bill*



1 *and Assembly Bill 1171. That section of this bill shall only become*  
2 *operative if (1) both bills are enacted and become effective on or*  
3 *before January 1, 2022, (2) each bill amends Section 13956 of the*  
4 *Government Code, and (3) this bill is enacted after Assembly Bill*  
5 *1171, in which case Section 3 of this bill shall not become*  
6 *operative.*

O