

# STATUTES

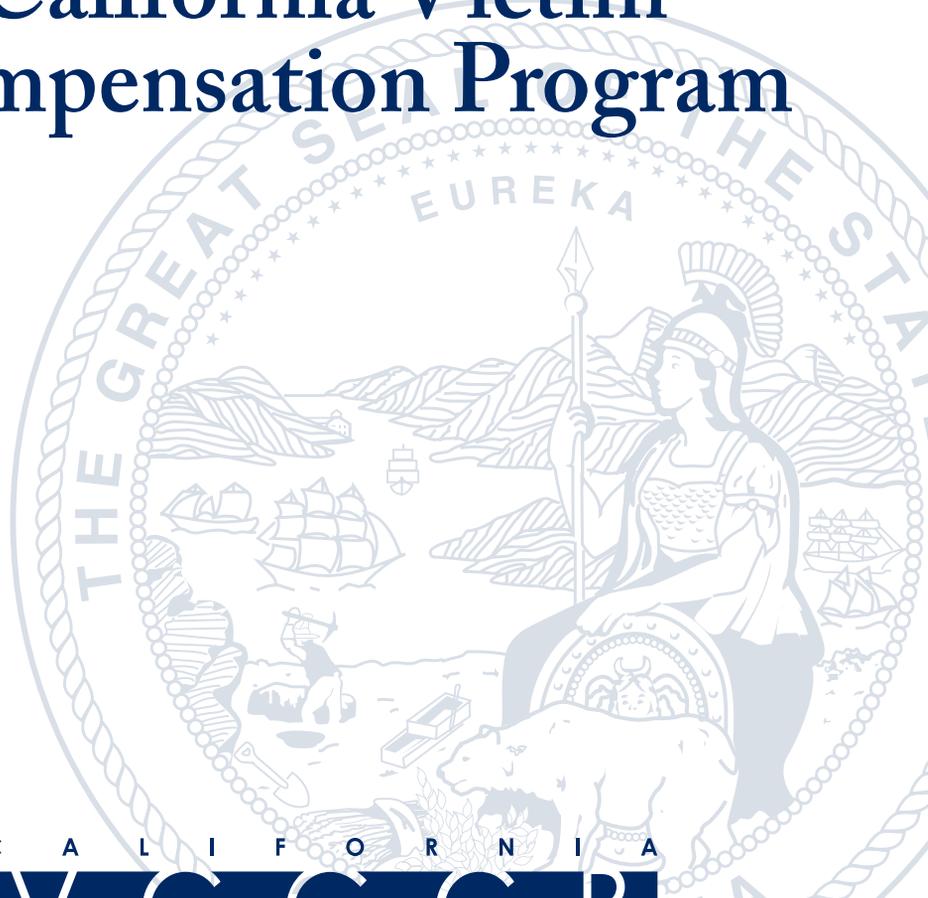
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## California Victim Compensation Program

C A L I F O R N I A

**V C G C B**

Victim Compensation & Government Claims Board



## Preface

In 1965, the State of California became the first state to establish a victim compensation program. Today, the California Victim Compensation Program (CalVCP) is the nation's largest victim compensation program.

CalVCP provides compensation for victims of violent crime who are injured or threatened with injury. Crimes covered include domestic violence, child abuse, sexual and physical assault, homicide, robbery, drunk driving and vehicular manslaughter. CalVCP will compensate many types of services when the costs are not covered by other sources if a person meets eligibility criteria. Covered expenses include medical and dental care, mental health services, income and support loss, funeral/burial expenses, crime scene clean-up, rehabilitation, vehicle and home modification, home security, and relocation.

During the past two years, the California Victim Compensation and Government Claims Board conducted a comprehensive review of CalVCP Program and CalVCP Hearing Procedure regulations including soliciting feedback from joint-powers offices, victim witness assistance centers, providers and other stakeholders regarding regulatory changes to improve CalVCP. We were able to successfully complete the rulemaking process to update the regulations that govern Cal VCP.

This book includes the 2010 statutes and updated regulations governing the VCGCB and its programs, for easy reference. We are proud of our accomplishments and look forward to continuing to provide the best services possible to victims of crime.

Julie Nauman  
Executive Officer

# Table of Contents

<b>Preface</b> .....	<b>i</b>
<b>Statutes Governing the Victim Compensation Program</b> .....	<b>7</b>
§ 13950. Legislative findings and declarations; Application of Chapter .....	7
§ 13951. Definitions .....	7
§ 13952. Requirements for Filing an Application for Compensation .....	7
§ 13952.5. Emergency Awards .....	8
§ 13953. Time Period for Filing an Application and Extensions for Good Cause .....	8
§ 13954. Verification of Applications .....	9
§ 13955. Eligible Applicants .....	10
§ 13956. Denial of Eligibility .....	11
§ 13957. Covered Benefits .....	11
§ 13957.2. Service limitations and Maximum Rates; Filing with Secretary of State. ....	13
§ 13957.5. Income and Support Loss .....	13
§ 13957.7. Time Limit for Payment of Expenses, Procedures for Payment, and Payment of Attorney Fees. ....	14
§ 13957.9. Expedite Claims Payments for qualified Mental Health Providers .....	15
§ 13958. Average time for approving or denying application .....	15
§ 13959. Hearing to Contest Staff Recommendation to Deny Compensation .....	15
§ 13960. Filing Petition for Writ of Mandate .....	16
§ 13962. Publicizing Program and Law Enforcement’s Duty to Inform Victims of the Program. ....	16
§ 13963. Subrogation Rights of Board and Board Liens Against Any Judgment or Settlement for Sums Paid by the Board. ....	16
§ 13964. Claims Paid From Restitution Fund .....	17
§ 13965. Overpayments .....	18
§ 13966. Board Authority to Recover Moneys Owed .....	18
<b>Good Samaritans</b> .....	<b>19</b>
§ 13970. Recognition and Indemnification of Good Samaritans .....	19
§ 13971. Definition of “Private citizen” .....	19
§ 13972. Requirements for Filing of claim .....	19
§ 13973. Hearing Procedures and Burden of Proof .....	19
§ 13974. Board’s Authority to Make Needed Rules and Regulations .....	20

TABLE OF CONTENTS

**Missing Children Reward**.....20

    § 13974.1. Establishment Missing Children Reward Fund and Recommendation  
        by the Attorney General ..... 20

    § 13974.2. Application of Chapter ..... 20

## Statutes Governing the Victim Compensation Program

### § 13950. Legislative findings and declarations; Application of Chapter

(a) The Legislature finds and declares that it is in the public interest to assist residents of the State of California in obtaining compensation for the pecuniary losses they suffer as a direct result of criminal acts.

(b) This chapter shall govern the procedure by which crime victims may obtain compensation from the Restitution Fund.

(c) Any reference in statute or regulations to Article 1 (commencing with Section 13959) of Chapter 5, as it read on December 31, 2002, shall be construed to refer to this chapter.

### § 13951. Definitions

As used in this chapter, the following definitions shall apply:

(a) "Board" means the California Victim Compensation and Government Claims Board.

(b)(1) "Crime" means a crime or public offense, wherever it may take place, that would constitute a misdemeanor or a felony if the crime had been committed in California by a competent adult.

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

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

(d) "Law enforcement" means every district attorney, municipal police department, sheriff's department, district attorney's office, county probation department, and social services agency, the Department of Justice, the Department of Corrections, the Department of the Youth Authority, the Department of the California Highway Patrol, the police department of any campus of the University of California, California State University, or community college, and every agency of the State of California expressly authorized by statute to investigate or prosecute law violators.

(e) "Pecuniary loss" means an economic loss or expense resulting from an injury or death to a victim of crime that has not been and will not be reimbursed from any other source.

(f) "Peer counseling" means counseling offered by a provider of mental health counseling services who has completed a specialized course in rape crisis counseling skills development, participates in continuing education in rape crisis counseling skills development, and provides rape crisis counseling within the State of California.

(g) "Victim" means an individual who sustains injury or death as a direct result of a crime as specified in subdivision (e) of Section 13955.

(h) "Victim center" means a victim and witness assistance center that receives funds pursuant to Section 13835.2 of the Penal Code.

### § 13952. Requirements for Filing an Application for Compensation

(a) An application for compensation shall be filed with the board in the manner determined by the board.

(b)(1) The application for compensation shall be verified under penalty of perjury by the individual who is seeking compensation, who may be the victim or derivative victim, or an individual seeking reimbursement for burial, funeral, or crime scene cleanup expenses pursuant to subdivision (a) of Section 13957. If the individual seeking compensation is a minor or is incompetent, the application shall be verified under penalty of perjury or on information and belief by the parent with legal custody, guardian, conservator, or relative caregiver of the victim or derivative victim for whom the application is made. However, if a minor seeks compensation only for expenses for medical, medical-related, psychiatric, psychological, or other mental health counseling-related services and the minor is authorized by statute to consent to those services, the minor may verify the application for compensation under penalty of perjury.

(2) For purposes of this subdivision, "relative caregiver" means a relative as defined in subdivision (i) of Section 6550 of the Family Code, who assumed primary responsibility for the child while the child was in the relative's care and control, and who is not a biological or adoptive parent.

(c)(1) The board may require submission of additional information supporting the application that is reasonably necessary to verify the application and determine eligibility for compensation.

(2) The staff of the board shall determine whether an application for compensation contains all of the information

required by the board. If the staff determines that an application does not contain all of the required information, the staff shall communicate that determination to the applicant with a brief statement of the additional information required. The applicant, within 30 calendar days of being notified that the application is incomplete, may either supply the additional information or appeal the staff's determination to the board, which shall review the application to determine whether it is complete.

(d)(1) The board may recognize an authorized representative of the victim or derivative victim, who shall represent the victim or derivative victim pursuant to rules adopted by the board.

(2) For purposes of this subdivision, "authorized representative" means any of the following:

(A) An attorney.

(B) If the victim or derivative victim is a minor or an incompetent adult, the legal guardian or conservator, or an immediate family member, parent, or relative caregiver who is not the perpetrator of the crime that gave rise to the claim.

(C) A victim assistance advocate certified pursuant to Section 13835.10 of the Penal Code.

(D) An immediate family member of the victim or derivative victim, who has written authorization by the victim or derivative victim, and who is not the perpetrator of the crime that gave rise to the claim.

(E) Other persons who shall represent the victim or derivative victim pursuant to rules adopted by the board.

(3) Except for attorney's fees awarded under this chapter, no authorized representative described in paragraph (2) shall charge, demand, receive, or collect any amount for services rendered under this subdivision.

### § 13952.5. Emergency Awards

(a) An emergency award shall be available to a person eligible for compensation pursuant to this chapter if the board determines that such an award is necessary to avoid or mitigate substantial hardship that may result from delaying compensation until complete and final consideration of an application.

(b) The board shall establish the method for requesting an emergency award, which may include, but need not be limited to, requiring submission of the regular application as provided for in Section 13952.

(c)(1) The board may grant an emergency award based solely on the application of the victim or derivative victim. The board may refuse to grant an emergency award where it has reason to believe that the applicant will not be eligible for compensation under this chapter.

(2) By mutual agreement between the staff of the board and the applicant or the applicant's representative, the staff of the board may take additional 10-day periods to verify the emergency award claim and make payment.

(3) The board may delegate authority to designated staff persons and designated agencies, including, but not limited to, district attorneys, probation departments, victim centers, and other victim service providers approved by the board and under contract with the board, who shall use guidelines established by the board, to grant and disburse emergency awards.

(d) Disbursements of funds for emergency awards shall be made within 30 calendar days of application.

(e)(1) If an application for an emergency award is denied, the board shall notify the applicant in writing of the reasons for the denial.

(2) An applicant for an emergency award shall not be entitled to a hearing before the board to contest a denial of an emergency award. However, denial of an emergency award shall not prevent further consideration of the application for a regular award and shall not affect the applicant's right to a hearing pursuant to Section 13959 if staff recommends denial of a regular award.

(f)(1) If upon final disposition of the regular application, it is found that the applicant is not eligible for compensation from the board, the applicant shall reimburse the board for the emergency award pursuant to an agreed-upon repayment schedule.

(2) If upon a final disposition of the application, the board grants compensation to the applicant, the amount of the emergency award shall be deducted from the final award of compensation. If the amount of the compensation is less than the amount of the emergency award, the excess amount shall be treated as an overpayment pursuant to Section 13965.

(3) "Final disposition," for the purposes of this section, shall mean the final decision of the board with respect to the victim's or derivative victim's application, before any action for judicial review is instituted.

(g) The amount of an emergency award shall be dependent upon the immediate needs of the victim or derivative victim subject to rates and limitations established by the board.

### § 13953. Time Period for Filing an Application and Extensions for Good Cause

(a) An application for compensation shall be filed within one year of the date of the crime, one year after the victim attains 18 years of age, or one year of the time the victim or derivative victim knew or in the exercise of ordinary diligence could have discovered that an injury or death had been sustained as a direct result of crime, whichever is later. An application based on any crime eligible for prosecution

under Section 801.1 of the Penal Code may be filed any time prior to the victim's 28th birthday.

(b) The board may for good cause grant an extension of the time period in subdivision (a). In making this determination, the board may consider any relevant factors, including, but not limited to, all of the following:

(1) A recommendation from the prosecuting attorney regarding the victim's or derivative victim's cooperation with law enforcement and the prosecuting attorney in the apprehension and prosecution of the person charged with the crime.

(2) Whether particular events occurring during the prosecution or in the punishment of the person convicted of the crime have resulted in the victim or derivative victim incurring pecuniary loss.

(3) Whether the nature of the crime is such that a delayed reporting of the crime is reasonably excusable.

(c) The period prescribed in this section for filing an application by or on behalf of a derivative victim shall be tolled when the board accepts the application filed by a victim of the same qualifying crime.

### § 13954. Verification of Applications

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

(b) The victim and the applicant, if other than the victim, shall cooperate with the staff of the board or the victim center in the verification of the information contained in the application. Failure to cooperate shall be reported to the board, which, in its discretion, may reject the application solely on this ground.

(c) The board may contract with victim centers to provide verification of applications processed by the centers pursuant to conditions stated in subdivision (a). The board and its staff shall cooperate with the Office of Criminal Justice Planning and victim centers in conducting training sessions for center personnel and shall cooperate in the development

of standardized verification procedures to be used by the victim centers in the state. The board and its staff shall cooperate with victim centers in disseminating standardized board policies and findings as they relate to the centers.

(d) Notwithstanding Section 827 of the Welfare and Institutions Code or any other provision of law, every law enforcement and social service agency in the state shall provide to the board or to victim centers that have contracts with the board pursuant to subdivision (c), upon request, a copy of a petition filed in a juvenile court proceeding, reports of the probation officer, any other document made available to the probation officer or to the judge, referee, or other hearing officer, a complete copy of the report regarding the incident, and any supplemental reports involving the crime, public offense, or incident giving rise to a claim, for the specific purpose of the submission of a claim or the determination of eligibility to submit a claim filed pursuant to this chapter. The board and victim centers receiving records pursuant to this subdivision may not disclose a document that personally identifies a minor to anyone other than the minor who is so identified, his or her custodial parent or guardian, the attorneys for those parties, and any other persons that may be designated by court order. Any information received pursuant to this section shall be received in confidence for the limited purpose for which it was provided and may not be further disseminated. A violation of this subdivision is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

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

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

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

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

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

### § 13955. Eligible Applicants

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) 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 within this state, whether or not the victim is a resident of the state. 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 within the State of California, the victim was any of the following:

- (A) A resident of the state.
- (B) A member of the military stationed in California.
- (C) A family member living with a member of the military stationed in this state.

(c) If compensation is being sought for a derivative victim, the derivative victim is a resident of this state, or resident of another 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 he or she 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 261, 262, 271, 273a, 273d, 285, 286, 288, 288a, 288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the Penal Code.

(B) 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.

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

(D) Section 278 or 278.5 of the Penal Code, where the deprivation of custody as described in those sections has endured for 30 calendar days or more. For purposes of this paragraph, the child, and not the nonoffending parent or other caretaker, shall be deemed the victim.

(g) The injury or death has resulted or may result in pecuniary loss within the scope of compensation pursuant to Sections 13957 to 13957.9, inclusive.

**§ 13956. Denial of Eligibility**

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

(a) An application shall be denied if the board finds that the victim or, where compensation is sought by or on behalf of a derivative victim, either the victim or derivative victim, knowingly and willingly participated in the commission of the crime that resulted in the pecuniary loss for which compensation is being sought pursuant to this chapter. However, this subdivision shall not apply if the injury or death occurred as a direct result of a crime committed in violation of Section 261, 262, or 273.5 of, or a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of, the Penal Code.

(b)(1) An application shall be denied if the board finds that the victim or, where compensation is sought by, or on behalf of, a derivative victim, either the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. However, in determining whether cooperation has been reasonable, the board shall consider the victim's or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or the victim's family or the derivative victim or the derivative victim's family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of any of these factors.

(2) An application for a claim based on domestic violence may not be denied solely because no police report was made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on domestic violence relying upon evidence other than a police report to establish that a domestic violence crime has occurred. Factors evidencing that a domestic violence crime has occurred may include, but are not limited to, medical records documenting injuries consistent with allegations of domestic violence, mental health records, or the fact that the victim has obtained a temporary or permanent restraining order, or all of these.

(3) An application for a claim based on human trafficking as defined in Section 236.1 of the Penal Code may not be denied solely because no police report was made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on human trafficking relying upon evidence other than a police report to establish that a human trafficking crime as defined in Section 236.1 has occurred. That evidence may include any reliable corroborating information approved by the board, including, but not limited to, the following:

(A) A Law Enforcement Agency Endorsement issued pursuant to Section 236.2 of the Penal Code.

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

(c) An application for compensation may be denied, in whole or in part, if the board finds that denial is appropriate because of the nature of the victim's or other applicant's involvement in the events leading to the crime or the involvement of the persons whose injury or death gives rise to the application. In the case of a minor, the board shall consider the minor's age, physical condition, and psychological state, as well as any compelling health and safety concerns, in determining whether the minor's application should be denied pursuant to this section. The application of a derivative victim of domestic violence under the age of 18 years of age or a derivative victim of trafficking under 18 years of age may not be denied on the basis of the denial of the victim's application under this subdivision.

(d)(1) Notwithstanding Section 13955, no person who is convicted of a felony may be granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, if any. In no case shall compensation be granted to an applicant pursuant to this chapter during any period of time the applicant is held in a correctional institution.

(2) A person who has been convicted of a felony may apply for compensation pursuant to this chapter at any time, but the award of that compensation may not be considered until the applicant meets the requirements for compensation set forth in paragraph (1).

(3) Applications of victims who are not felons shall receive priority in the award of compensation over an application submitted by a felon who has met the requirements for compensation set forth in paragraph (1).

**§ 13957. Covered Benefits**

(a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counsel-

ing for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars (\$10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars (\$10,000) for not more than two derivative victims.

(B) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed five thousand dollars (\$5,000):

(i) A derivative victim not eligible for reimbursement pursuant to subparagraph (A), provided that mental health counseling of a derivative victim described in paragraph (5) of subdivision (c) of Section 13955, shall be reimbursed only if that counseling is necessary for the treatment of the victim.

(ii) A victim of a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of the Penal Code. A derivative victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not be eligible for reimbursement of mental health counseling expenses.

(iii) A minor who suffers emotional injury as a direct result of witnessing a violent crime and who is not eligible for reimbursement of the costs of outpatient mental health counseling under any other provision of this chapter. To be eligible for reimbursement under this clause, the minor must have been in close proximity to the victim when he or she witnessed the crime.

(C) The board may reimburse a victim or derivative victim for outpatient mental health counseling in excess of that authorized by subparagraphs (A) or (B) or for inpatient psychiatric, psychological, or other mental health counseling if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.

(D) Expenses for psychiatric, psychological, or other mental health counseling-related services may be reimbursed only if the services were provided by either of the following individuals:

(i) A person who would have been authorized to provide those services pursuant to former Article 1 (commencing with Section 13959) as it read on January 1, 2002.

(ii) A person who is licensed by the state to provide those services, or who is properly supervised by a person who is so licensed, subject to the board's approval and subject to the limitations and restrictions the board may impose.

(3) Reimburse the expenses of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(4) Subject to the limitations set forth in Section 13957.5, authorize compensation equal to the loss of income or loss of support, or both, that a victim or derivative victim incurs as a direct result of the victim's or derivative victim's injury or the victim's death. If the victim or derivative victim requests that the board give priority to reimbursement of loss of income or support, the board may not pay medical expenses, or mental health counseling expenses, except upon the request of the victim or derivative victim or after determining that payment of these expenses will not decrease the funds available for payment of loss of income or support.

(5) Authorize a cash payment to or on behalf of the victim for job retraining or similar employment-oriented services.

(6) Reimburse the claimant for the expense of installing or increasing residential security, not to exceed one thousand dollars (\$1,000). Reimbursement shall be made either upon verification by law enforcement that the security measures are necessary for the personal safety of the claimant or verification by a mental health treatment provider that the security measures are necessary for the emotional well-being of the claimant. For purposes of this paragraph, a claimant is the crime victim, or, if the victim is deceased, a person who resided with the deceased at the time of the crime. Installing or increasing residential security may include, but need not be limited to, both of the following:

(A) Home security device or system.

(B) Replacing or increasing the number of locks.

(7) Reimburse the expense of renovating or retrofitting a victim's residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by a victim upon verification that the expense is medically necessary for a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total.

(8)(A) Authorize a cash payment or reimbursement not to exceed two thousand dollars (\$2,000) to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(B) The cash payment or reimbursement made under this paragraph shall only be awarded to one claimant per crime

giving rise to the relocation. The board may authorize more than one relocation per crime if necessary for the personal safety or emotional well-being of the claimant. However, the total cash payment or reimbursement for all relocations due to the same crime shall not exceed two thousand dollars (\$2,000). For purposes of this paragraph a claimant is the crime victim, or, if the victim is deceased, a person who resided with the deceased at the time of the crime.

(C) The board may, under compelling circumstances, award a second cash payment or reimbursement to a victim for another crime if both of the following conditions are met:

(i) The crime occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(ii) The crime does not involve the same offender.

(D) When a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender.

(E) Notwithstanding subparagraphs (A) and (B), the board may increase the cash payment or reimbursement for expenses incurred in relocating to an amount greater than two thousand dollars (\$2,000), if the board finds this amount is appropriate due to the unusual, dire, or exceptional circumstances of a particular claim.

(9) When a victim dies as a result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay any of the following expenses:

(A) The medical expenses incurred as a direct result of the crime in an amount not to exceed the rates or limitations established by the board.

(B) The funeral and burial expenses incurred as a direct result of the crime, not to exceed seven thousand five hundred dollars (\$7,500).

(10) When the crime occurs in a residence, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars (\$1,000). Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Public Health as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.

(b) The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars (\$35,000), except that this amount may be increased to

seventy thousand dollars (\$70,000) if federal funds for that increase are available.

### § 13957.2. Service limitations and Maximum Rates; Filing with Secretary of State.

(a) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related services and for mental health and counseling services. The adoption, amendment, and repeal of these service limitations and maximum rates shall not be subject to the rulemaking provision of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1). An informational copy of the service limitations and maximum rates shall be filed with the Secretary of State upon adoption by the board. A provider who accepts payment from the program for a service shall accept the program's rates as payment in full and shall not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the board for that service. To ensure service limitations that are uniform and appropriate to the levels of treatment required by the victim or derivative victim, the board may review all claims for these services as necessary to ensure their medical necessity.

(b) The board may request an independent examination and report from any provider of medical or medical-related services or psychological or psychiatric treatment or mental health counseling services, if it believes there is a reasonable basis for requesting an additional evaluation. The victim or derivative victim shall be notified of the name of the provider who is to perform the evaluation within 30 calendar days of that determination. In cases where the crime involves sexual assault, the provider shall have expertise in the needs of sexual assault victims. In cases where the crime involves child abuse or molestation, the provider shall have expertise in the needs of victims of child abuse or molestation, as appropriate. When a reevaluation is requested, payments shall not be discontinued prior to completion of the reevaluation.

(c) Reimbursement for any medical or medical-related services shall, if the application has been approved, be paid by the board within an average of 90 days from receipt of the claim for payment. Payments to a medical or mental health provider may not be discontinued prior to completion of any reevaluation. Whether or not a reevaluation is obtained, if the board determines that payments to a provider will be discontinued, the board shall notify the provider of their discontinuance within 30 calendar days of its determination.

### § 13957.5. Income and Support Loss

(a) In authorizing compensation for loss of income and support pursuant to paragraph (4) of subdivision (a) of Section 13957, the board may take any of the following actions:

(1) Compensate the victim for loss of income directly resulting from the injury, except that loss of income may not be paid by the board for more than five years following the crime, unless the victim is disabled as defined in Section 416(i) of Title 42 of the United States Code, as a direct result of the injury.

(2) Compensate an adult derivative victim for loss of income, subject to all of the following:

(A) The derivative victim is the parent or legal guardian of a victim, who at the time of the crime was under the age of 18 years and is hospitalized as a direct result of the crime.

(B) The minor victim's treating physician certifies in writing that the presence of the victim's parent or legal guardian at the hospital is necessary for the treatment of the victim.

(C) Reimbursement for loss of income under this paragraph may not exceed the total value of the income that would have been earned by the adult derivative victim during a 30-day period.

(3) Compensate an adult derivative victim for loss of income, subject to all of the following:

(A) The derivative victim is the parent or legal guardian of a victim who at the time of the crime was under the age of 18 years.

(B) The victim died as a direct result of the crime.

(C) The board shall pay for loss of income under this paragraph for not more than 30 days from the date of the victim's death.

(4) Compensate a derivative victim who was legally dependent on the victim at the time of the crime for the loss of support incurred by that person as a direct result of the crime, subject to both of the following:

(A) Loss of support shall be paid by the board for income lost by an adult for a period up to, but not more than, five years following the date of the crime.

(B) Loss of support shall not be paid by the board on behalf of a minor for a period beyond the child's attaining the age of 18 years.

(b) The total amount payable to all derivative victims pursuant to this section as the result of one crime may not exceed seventy thousand dollars (\$70,000).

### **§ 13957.7. Time Limit for Payment of Expenses, Procedures for Payment, and Payment of Attorney Fees.**

(a) No reimbursement may be made for any expense that is submitted more than three years after it is incurred by the victim or derivative victim. However, reimbursement may be made for an expense submitted more than three years after the date it is incurred if the victim or derivative victim

has affirmed the debt and is liable for the debt at the time the expense is submitted for reimbursement, or has paid the expense as a direct result of a crime for which a timely application has been filed.

(b) Compensation made pursuant to this chapter may be on a one-time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of compensation according to the applicant's need, subject to the maximum limits provided in this chapter.

(c)(1) The board may authorize direct payment to a provider of services that are reimbursable pursuant to this chapter and may make those payments prior to verification. However, the board may not, without good cause, authorize a direct payment to a provider over the objection of the victim or derivative victim.

(2) Reimbursement on the initial claim for any psychological, psychiatric, or mental health counseling services shall, if the application has been approved, be paid by the board within 90 days of the date of receipt of the claim for payment, with subsequent payments to be made to the provider within one month of the receipt of a claim for payment.

(d) Payments for peer counseling services provided by a rape crisis center may not exceed fifteen dollars (\$15) for each hour of services provided. Those services shall be limited to in-person counseling for a period not to exceed 10 weeks plus one series of facilitated support group counseling sessions.

(e) The board shall develop procedures to ensure that a victim is using compensation for job retraining or relocation only for its intended purposes. The procedures may include, but need not be limited to, requiring copies of receipts, agreements, or other documents as requested, or developing a method for direct payment.

(f) Compensation granted pursuant to this chapter shall not disqualify an otherwise eligible applicant from participation in any other public assistance program.

(g) The board shall pay attorney's fees representing the reasonable value of legal services rendered to the applicant, in an amount equal to 10 percent of the amount of the award, or five hundred dollars (\$500), whichever is less, for each victim and each derivative victim. An attorney receiving fees from another source may waive the right to receive fees under this subdivision. Payments under this subdivision shall be in addition to any amount authorized or ordered under subdivision (b) of Section 13960. An attorney may not charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this chapter except as awarded under this chapter.

(h) A private nonprofit agency shall be reimbursed for its services at the level of the normal and customary fee charged by the private nonprofit agency to clients with adequate means of payment for its services, except that this reimbursement may not exceed the maximum reimburse-

ment rates set by the board and may be made only to the extent that the victim otherwise qualifies for compensation under this chapter and that other reimbursement or direct subsidies are not available to serve the victim.

### § 13957.9. Expedite Claims Payments for qualified Mental Health Providers

(a) Notwithstanding Section 13954, the board shall develop a simplified and expedited procedure for paying claims of a qualified provider of mental health services.

(b) A simplified and expedited procedure for paying claims specified in subdivision (a) shall include all of the following:

(1) An agreement by the provider to subject its claims to audit procedures established by the board and to request payment only for qualified services.

(2) An agreement by the board to pay claims on a regular and timely basis to a qualified provider for services without requiring further documentation beyond that required to initially qualify the claim.

(3) Additional methods of simplifying the claims process as agreed upon between the board and the qualified provider.

(c) Simplified and expedited procedures for mental health services may be instituted when both of the following conditions are met:

(1) The board has determined that the crime has occurred and that the victim qualifies for compensation pursuant to this chapter.

(2) Services to the victim or derivative victim, or both, are being provided by a qualified provider.

(d) A nonprofit agency may apply to the board for a determination that the nonprofit agency is a qualified provider for purposes of this section. The board shall approve or reject an application from a qualified provider for participation in an agreement pursuant to this section within 90 days of receipt of a complete application as required by the board.

(e) An agreement made pursuant to this section shall not be deemed to be a contract subject to the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(f) For purposes of this section, “qualified provider” means a nonprofit agency with extensive experience in providing mental health services and that has utilized reimbursement from the Restitution Fund at a significant level on a regular and constant basis. Upon request of a nonprofit agency, the board shall determine if the nonprofit agency is a qualified provider for purposes of this section.

### § 13958. Average time for approving or denying application

The board shall approve or deny applications, based on recommendations of the board staff, within an average of 90 calendar days and no later than 180 calendar days of acceptance by the board or victim center.

(a) If the board does not meet the 90-day average standard prescribed in this subdivision, the board shall, thereafter, report to the Legislature, on a quarterly basis, its progress and its current average time of processing applications. These quarterly reports shall continue until the board meets the 90-day average standard for two consecutive quarters.

(b) If the board fails to approve or deny an individual application within 180 days of the date it is accepted, pursuant to this subdivision, the board shall advise the applicant and his or her representative, in writing, of the reason for the failure to approve or deny the application.

### § 13959. Hearing to Contest Staff Recommendation to Deny Compensation

(a) The board shall grant a hearing to an applicant who believes he or she is entitled to compensation pursuant to this chapter to contest 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 application 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) 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.

(f) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications. 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.

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

(h) The decisions of the board shall be in writing. 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 application 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.

### § 13960. Filing Petition for Writ of Mandate

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

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

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

(3) Where a timely request for reconsideration is filed and granted by the board, or reconsideration is ordered by the board, within 30 calendar days of personal delivery or within 60 calendar days of the mailing of the final decision on the reconsidered application.

(b)(1) In an action resulting in the issuance of a writ of mandate pursuant to this section the court may order the board

to pay to the applicant's attorney reasonable attorney's fees or one thousand dollars (\$1,000), whichever is less. If action is taken by the board in favor of the applicant in response to the filing of the petition, but prior to a judicial determination, the board shall pay the applicant's costs of filing the petition.

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

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

### § 13962. Publicizing Program and Law Enforcement's Duty to Inform Victims of the Program.

(a) The board shall publicize through the board, law enforcement agencies, victim centers, hospitals, medical, mental health or other counseling service providers, and other public or private agencies, the existence of the program established pursuant to this chapter, including the procedures for obtaining compensation under the program.

(b) It shall be the duty of every local law enforcement agency to inform crime victims of the provisions of this chapter, of the existence of victim centers, and in counties where no victim center exists, to provide application forms to victims who desire to seek compensation pursuant to this chapter. The board shall provide application forms and all other documents that local law enforcement agencies and victim centers may require to comply with this section. The board, in cooperation with victim centers, shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply with the standards.

### § 13963. Subrogation Rights of Board and Board Liens Against Any Judgment or Settlement for Sums Paid by the Board.

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

(b) The board shall also be entitled to a lien on any judgment, award, or settlement in favor of or on behalf of the recipient for losses suffered as a direct result of the crime that was the basis for receipt of compensation in the amount of

the compensation granted by the board. The board may recover this amount in a separate action, or may intervene in an action brought by or on behalf of the recipient. If a claim is filed within one year of the date of recovery, the board shall pay 25 percent of the amount of the recovery that is subject to a lien on the judgment, award, or settlement, to the recipient responsible for recovery thereof from the perpetrator of the crime, provided that the total amount of the lien is recovered. The remaining 75 percent of the amount, and any amount not claimed within one year pursuant to this section, shall be deposited in the Restitution Fund.

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

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

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

(2) Notice shall include all of the following:

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

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

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

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

(3) When the recipient or his or her attorney has reason to believe that a person from whom damages are sought is receiving a defense provided in whole or in part by an insurer, or is insured for the injury caused to the recipient, no-

tice shall include a statement of that fact and the name and address of the insurer. Upon request of the board, a person obligated to provide notice shall provide the board with a copy of the current written claim or complaint.

(f) The board shall pay the county probation department or other county agency responsible for collection of funds owed to the Restitution Fund under Section 13967, as operative on or before September 28, 1994, Section 1202.4 of the Penal Code, Section 1203.04 of the Penal Code, as operative on or before August 2, 1995, or Section 730.6 of the Welfare and Institutions Code, 10 percent of the funds so owed and collected by the county agency and deposited in the Restitution Fund. This payment shall be made only when the funds are deposited in the Restitution Fund within 45 days of the end of the month in which the funds are collected. Receiving 10 percent of the moneys collected as being owed to the Restitution Fund shall be considered an incentive for collection efforts and shall be used for furthering these collection efforts. The 10-percent rebates shall be used to augment the budgets for the county agencies responsible for collection of funds owed to the Restitution Fund, as provided in Section 13967, as operative on or before September 28, 1994, Section 1202.4 of the Penal Code, Section 1203.04 of the Penal Code, operative on or before August 2, 1995, or Section 730.6 of the Welfare and Institutions Code. The 10-percent rebates shall not be used to supplant county funding.

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

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

### § 13964. Claims Paid From Restitution Fund

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

(b) Notwithstanding Section 13340, the proceeds in the Restitution Fund are hereby continuously appropriated to the board, without regard to fiscal years, for the purposes of this chapter. However, the funds appropriated pursuant to this section for administrative costs of the board shall be subject to annual review through the State Budget process.

(c) A sum not to exceed 15 percent of the amount appropriated annually to pay claims pursuant to this chapter may be withdrawn from the Restitution Fund, to be used as a revolving fund by the board for the payment of emergency awards pursuant to Section 13961.

**§ 13965. Overpayments**

(a) A person who has been overpaid or on whose behalf any provider or other person has been overpaid under this chapter is liable for that amount unless both of the following facts exist:

(1) The overpayment was not due to fraud, misrepresentation, or willful nondisclosure on the part of the recipient.

(2) The overpayment was received without fault on the part of the recipient, and its recovery would be against equity and good conscience.

(b) All overpayments exceeding two thousand dollars (\$2,000) shall be reported to the Legislature pursuant to Section 13928 and the relief from liability described in subdivision (a) shall be subject to legislative approval.

**§ 13966. Board Authority to Recover Moneys Owed**

The board may do all of the following to recover moneys owed to the Restitution Fund:

(a) File a civil action against the liable person for the recovery of the amount of moneys owed. This action shall be filed within one year of either of the following events, or within three years of either of the following events if the liable person was overpaid benefits due to fraud, misrepresentation, or nondisclosure as described in paragraph (1) of subdivision (a) of Section 13965:

(1) The mailing or personal service of the notice of the moneys owed if the person affected does not file an appeal with the board or person designated by the board.

(2) The mailing of the decision of the board if the person affected does not initiate a further appeal.

(b)(1) Initiate proceedings for a summary judgment against the liable person. However, this subdivision shall apply only where the board has found, pursuant to Section 13965, that the overpayment may not be waived. The board may, not later than three years after the overpayment became final, file with the clerk of the proper court in the county from which the overpayment of benefits was paid or in the county in which the claimant resides, a certificate containing all of the following:

(A) The amount due, plus interest from the date that the initial determination of the moneys owed was made.

(B) A statement that the board has complied with all the provisions of this chapter prior to the filing of the certificate.

(C) A request that the judgment be entered against the liable person in the amount set forth in the certificate.

(2) The clerk, immediately upon the filing of the certificate, shall enter a judgment for the state against the liable person in the amount set forth in the certificate.

## Good Samaritans

### § 13970. Recognition and Indemnification of Good Samaritans

Direct action on the part of private citizens in preventing the commission of crimes against the person or property of others, or in apprehending criminals, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, benefits the entire public. In recognition of the public purpose served, the state may indemnify such citizens, their surviving spouses, their surviving children, and any persons dependent upon such citizens for their principal support in appropriate cases for any injury, death, or damage sustained by such citizens, their surviving spouses, their surviving children, and any persons dependent upon such citizens for their principal support as a direct consequence of such meritorious action to the extent that they are not compensated for the injury, death, or damage from any other source. A claim shall be denied if an award has been made under Article 1 (commencing with Section 13960) of this chapter for the same incident.

### § 13971. Definition of “Private citizen”

As used in this article, “private citizen” means any natural person other than a peace officer, fireman, lifeguard, or person whose employment includes the duty to protect the public safety acting within the course and scope of such employment.

### § 13972. Requirements for Filing of claim

(a) If a private citizen incurs personal injury or death or damage to his or her property in preventing the commission of a crime against the person or property of another, in apprehending a criminal, or in materially assisting a peace officer in prevention of a crime or apprehension of a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, the private citizen, his or her surviving spouse, his or her surviving children, a person dependent upon the citizen for his or her principal support, or a public safety or law enforcement agency acting on behalf of any of the above may file a claim with the California Victim Compensation and Government Claims Board for indemnification to the extent that the claimant is not compensated from any other source for the injury, death, or damage. The claim shall generally show all of the following:

(1) The date, place, and other circumstances of the occurrence or events that gave rise to the claim.

(2) A general description of the activities of the private citizen in prevention of a crime, apprehension of a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe.

(3) The amount or estimated amount of the injury, death, or damage sustained for which the claimant is not compensated from any other source, insofar as it may be known at the time of the presentation of the claim.

(4) Any other information that the California Victim Compensation and Government Claims Board may require.

(b) A claim filed under subdivision (a) shall be accompanied by a corroborating statement and recommendation from the appropriate state or local public safety or law enforcement agency.

### § 13973. Hearing Procedures and Burden of Proof

(a) Upon presentation of a claim pursuant to this chapter, the California Victim Compensation and Government Claims Board shall fix a time and place for the hearing of the claim, and shall mail notices of the hearing to interested persons or agencies. At the hearing, the board shall receive recommendations from public safety or law enforcement agencies, and evidence showing all of the following:

(1) The nature of the crime committed by the apprehended criminal or prevented by the action of the private citizen, or the nature of the action of the private citizen in rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, and the circumstances involved.

(2) That the actions of the private citizen substantially and materially contributed to the apprehension of a criminal, the prevention of a crime, or the rescuing of a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe.

(3) That as a direct consequence, the private citizen incurred personal injury or damage to property or died.

(4) The extent of the injury or damage for which the claimant is not compensated from any other source.

- (5) Any other evidence that the board may require.
- (b) If the board determines, on the basis of a preponderance of the evidence, that the state should indemnify the claimant for the injury, death, or damage sustained, it shall approve the claim for payment. In no event shall a claim be approved by the board under this article in excess of ten thousand dollars (\$10,000).
- (c) In addition to any award made under this chapter, the board may award, as attorney's fees, an amount representing the reasonable value of legal services rendered a claimant, but in no event to exceed 10 percent of the amount of the award. No attorney shall charge, demand, receive, or collect for services rendered in connection with any proceedings under this chapter any amount other than that awarded as attorney's fees under this section. Claims approved under

this chapter shall be paid from a separate appropriation made to the California Victim Compensation and Government Claims Board in the Budget Act and as the claims are approved by the board.

#### **§ 13974. Board's Authority to Make Needed Rules and Regulations**

The California Victim Compensation and Government Claims Board is hereby authorized to make all needful rules and regulations consistent with the law for the purpose of carrying into effect this article.

## Missing Children Reward

#### **§ 13974.1. Establishment Missing Children Reward Fund and Recommendation by the Attorney General**

- (a) The board shall utilize the provisions of this article, insofar as they may be made applicable, to establish a claim and reward procedure to reward persons providing information leading to the location of any child listed in the missing children registry compiled pursuant to former Section 11114 of the Penal Code or maintained pursuant to the system maintained pursuant to Sections 14201 and 14202 of the Penal Code.
- (b) Awards shall be made upon recommendation of the Department of Justice in an amount of not to exceed five hundred dollars (\$500) to any one individual. However, as a condition to an award, in any particular case, an amount equal to or greater in nonstate funds shall have been first offered as a reward for information leading to the location of that missing child.
- (c) The Missing Children Reward Fund is hereby created in the State Treasury and is continuously appropriated to the California Victim Compensation and Government Claims Board to make awards pursuant to this section.

#### **§ 13974.2. Application of Chapter**

Any reference to Article 2 (commencing with Section 13970) of Chapter 5, as it read on December 31, 2002, shall be construed to refer to this chapter.