

**California Victim Compensation and Government Claims Board
Title 2, §§ 649.50, 649.51, 649.53, 649.54, 649.56, 649.57**

PROPOSED TEXT

§ 649.503. Participation or Involvement in a Vehicle-Related Qualifying Crime

(a) A victim or derivative victim who was the driver of a vehicle, aircraft, or water vehicle may be found to have ~~been involved~~ participated in the events leading to the qualifying crime if one of the following was present:

- (1) the victim or derivative victim was driving the vehicle with a blood alcohol content exceeding the legal limit;
- (2) the victim or derivative victim was driving while under the influence of alcohol and/or drugs;
- (3) the victim or derivative victim was cited or arrested by law enforcement based on events leading to the qualifying crime or
- (4) the victim's or derivative victim's conduct was the primary cause of the vehicle collision.

~~(b) If any of the factors listed in subsection (a) caused the qualifying crime, the application may be denied for participation in the qualifying crime under section 649.51.~~

~~(b)~~ (e) A victim or derivative victim who was the passenger in a vehicle driven by a person under the influence of alcohol or drugs may be found to have been involved in the events leading to the vehicle-related qualifying crime if one of the following was present:

- (1) the victim or derivative victim knew or reasonably should have known that the driver was under the influence of alcohol or drugs; or
- (2) the victim or derivative victim was under the influence of alcohol or drugs and if sober should have reasonably known that the driver was under the influence of alcohol or drugs.

~~(c)~~ (d) Subsection (e) ~~does~~ shall not apply if:

- (1) the victim is under 14 years of age; or
- (2) the victim is under 18 years of age and the driver of the vehicle was the parent, guardian of the victim, or guardian of the victim. or an adult who had responsibility for the victim.
- (3) the victim died and the applicant is requesting funeral/burial expenses incurred on behalf of the victim.

~~(e) Subsection (c) may not apply if the victim is under 18 years of age and the driver of the vehicle is an adult who had responsibility for the victim other than the victim's parent or guardian.~~

~~(f) A victim or derivative victim may be found to have been involved in the events leading to the qualifying crime of a hit and run (Vehicle Code section 20001) if both of the following are present:~~

~~(1) The victim or derivative victim acted in a blatant, wrongful or provoking manner; and~~

~~(2) The victim's or derivative victim's conduct contributed to the events leading to the qualifying crime.~~

~~(fd) Significant weight may be given to the evidence from and conclusions of a law enforcement agency after investigation of the qualifying crime when evaluating the factors listed in subsections (a) and (be).~~

Note: Authority cited: Sections 13920 and 13974, Government Code. Reference: Section 13956, Government Code.

§ 649.510. Participation the Commission of a Crime for Which Compensation is Being Sought

(a) A victim or derivative victim who knowingly and willingly participated in the commission of a crime that resulted in the pecuniary loss for which compensation is being sought shall not be eligible for assistance.

~~(4b) This subsection shall not apply if the crime is a violation of Penal Code section 261.5 [Unlawful sexual intercourse with a minor] occurring on or after January 1, 1999, if the crime is any type of rape or sexual assault, or involving domestic violence.~~

~~(bc) A derivative victim is not eligible for assistance if the victim of the same crime knowingly and willingly participated in the commission of the crime.~~

~~(c) A victim or derivative victim knowingly and willingly participated in the commission of The crime if the victim or derivative victim was any of the following:~~

~~(1) a perpetrator;~~

~~(2) a co-conspirator; or~~

~~(3) an accomplice.~~

(d) Significant weight may be given to the evidence from and conclusions of a law enforcement agency after investigation of the qualifying crime when determining whether the victim or derivative victim participated in the commission of a crime.

Note: Authority cited: Sections 13920 and 13974, Government Code. Reference: Section 13956, Government Code.

§ 649.534. Participation or Involvement in the Qualifying Crime Due to Mutual Combat.

(a) Factors that may be considered when determining whether the victim or derivative victim who engages in mutual combat may be found to have participated in a qualifying crime include ~~was involved in the events leading to the qualifying crime as a result of mutual combat include~~, but are not limited to:

(1) there was an implicit or explicit agreement to fight;

(2) the victim or derivative victim initiated a physical altercation that led to the injury made a deliberate threat;

(3) the victim or derivative victim engaged in conduct indicating the intention of carrying out a deliberate threat;

(4) a victim or derivative victim who engages in mutual combat solely in self-defense shall not be found to have participated in a qualifying crime, but may be found to have been involved in the events leading to the qualifying crime under subsection (b); the deliberate conduct of the victim or derivative victim reasonably provoked the other party into starting a physical altercation that lead to the qualifying crime;

~~(5) the victim or derivative victim initiated a physical altercation that lead to the qualifying crime.~~

(b) Factors that may be considered when determining whether the victim or derivative victim who engages in mutual combat may be found to have been involved in a qualifying crime include, but are not limited to:

(1) the victim or derivative victim made a deliberate threat;

(2) the deliberate conduct of the victim or derivative victim reasonably provoked the other party into starting a physical altercation that led to the qualifying crime

Note: Authority cited: Sections 13920 and 13974, Government Code. Reference: Sections 13956 and 13964, Government Code.

§ 649.541. Participation Involvement in the Qualifying Crime Due to Illegal Drug-Related Activity.

~~(a) Involvement in the events leading to the qualifying crime by the victim or derivative victim may be found if the victim or derivative victim was either of the following:~~

(a) Participation in the crime of illegal drug activity by the victim or derivative victim may be found if the victim or derivative victim was either of the following:

(1) involved in an illegal drug transaction at the time the qualifying crime occurred; or

(2) victimized as a result of involvement in a prior illegal drug transaction.

(b) An illegal drug transaction includes, but is not limited to the following:

- (1) the illegal purchase of a drug;
- (2) the illegal sale of a drug;
- (3) the illegal possession of a drug for sale;
- (4) the illegal delivery or transportation of a drug;
- (5) the illegal manufacture of a drug.

(c) Significant weight may be given to the evidence from and conclusions of a law enforcement agency after investigation of the qualifying crime when determining whether the victim or derivative victim was involved in the events leading to the qualifying crime under subsection (a).

Note: Authority cited: Sections 13920 and 13974, Government Code. Reference: Section 13956, Government Code.

§ 649.576. Mitigation of Involvement in the Events Leading to the Qualifying Crime

(a) Factors that may be considered to mitigate or overcome involvement in the events leading to the qualifying crime include, but are not limited to:

- (1) the victim suffered an injury that was significantly more serious than reasonably could have been expected as a result of his or her involvement in the events leading to the qualifying crime;
- (2) another person involved in the events leading to the qualifying crime escalated his or her conduct in a manner not reasonably foreseeable by the victim or derivative victim;
- (3) a third party interfered in a manner not reasonably foreseeable by the victim or derivative victim.

(b) If factors overcome the victim or derivative victim's involvement, the application will be granted and the victim or any individual who pays the victim's expenses as stated in Government Code section 13957(a)(9) shall be eligible for Program benefits.

(c) If factors mitigate the victim or derivative victim's involvement but do not overcome that involvement, the application will be granted in part, and the victim or any individual who pays the victim's expenses as stated in Government Code section 13957(a)(9) shall only be eligible for medical expenses incurred on behalf of the victim on or after the date of the qualifying crime and funeral/burial expenses incurred on behalf of the victim.

Note: Authority cited: Sections 13920 and 13974, Government Code. Reference: Section 13956, Government Code.