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BOARD MEETING NOTICE
June 12, 2015
9:30 a.m.

Department of Consumer Affairs
Hearing Room
1625 N. Market Blvd., First Floor
Sacramento, CA 95834

Teleconference Location:

8740 Washington Blvd.
Culver City, CA 90232

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.

FULL BOARD OPEN SESSION - Call to Order and Establishment of Quorum

- I. Discussion and Possible Action Regarding Senate Bill 479 (Bates)
- II. Update and Possible Action on Text of Proposed Legislation for 2015: Crime Victims: Compensation for Reimbursement of Violence Peer Counseling.
- III. Public Comment for Items not on the Agenda
- IV. Suggestions for Future Agenda Items

FULL BOARD CLOSED SESSION

- V. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters

OPEN SESSION

- VI. Adjournment

**Introductions are voluntary for members of the public*

Public Comment on items of discussion will be taken during each item. Time



Governor
Edmund G. Brown Jr.
State of California

Business, Consumer Services
and Housing Agency

Department of
Consumer Affairs

limitations will be determined by the Chairperson. Times and order of items are approximate and subject to change. Action may be taken on any item listed on the Agenda.

THIS AGENDA AS WELL AS BOARD MEETING MINUTES CAN BE FOUND ON THE BOARD OF BEHAVIORAL SCIENCES WEBSITE AT www.bbs.ca.gov.

NOTICE: The meeting is accessible to persons with disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Christina Kitamura at (916) 574-7835 or send a written request to Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 479

VERSION: AMENDED JUNE 2, 2015

AUTHOR: BATES

**SPONSOR: CALIFORNIA ASSOCIATION FOR
BEHAVIOR ANALYSIS**

RECOMMENDED POSITION: NEUTRAL

SUBJECT: HEALING ARTS: BEHAVIOR ANALYSIS: LICENSING

Overview This bill establishes licensure for behavior analysts and assistant behavior analysts under the Board of Psychology.

Existing Law:

- 1) Requires that every health care service plan or insurance policy that provides hospital, medical or surgical coverage must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A). (Health and Safety Code (HSC) §1374.73(a), Insurance Code (IC) §10144.51(a))
- 2) Requires these health care service plans and health insurers subject to this provision to maintain an adequate network of qualified autism service providers. (HSC §1374.73(b), IC §10144.51(b))
- 3) Defines “behavioral health treatment” as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs which develop or restore the functioning of an individual with pervasive developmental disorder or autism, and meets the following criteria (HSC §1374.73(c), IC §10144.51(c):
 - Is prescribed by a licensed physician and surgeon or is developed by a licensed psychologist;
 - Is provided under a treatment plan prescribed by a qualified autism service provider and administered by such a provider or by a qualified autism service professional under supervision and employment of a qualified autism service provider;
 - The treatment plan has measurable goals over a specific timeline and the plan is reviewed by the provider at least once every six months; and

- Is not used for purposes of providing or for the reimbursement of respite, day care, or educational services.
- 4) Defines a “qualified autism service provider” as either (HSC §1374.73(c), IC §10144.51(c)):
- A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board, that is accredited and which designs, supervises, or provides treatment for pervasive developmental disorder or autism; or
 - A person who is licensed as a specified healing arts practitioner, including a psychologist, marriage and family therapist, educational psychologist, clinical social worker, or professional clinical counselor. The licensee must design, supervise, or provide treatment for pervasive developmental disorder or autism and be within his or her experience and competence.
- 5) Defines a “qualified autism service professional” as someone who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):
- Provides behavioral health treatment;
 - Is employed and supervised by a qualified autism service provider;
 - Provides treatment according to a treatment plan developed and approved by the qualified autism service provider.
 - Is a behavioral service provider approved by a regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program as defined in Section 54342 of Title 17 of the California Code of Regulations (CCR); and
 - Has training and experience providing services for pervasive developmental disorder or autism pursuant to the Lanterman Developmental Disabilities Services Act.
- 6) Defines a “qualified autism service paraprofessional” as an unlicensed and uncertified person who meets all of the following (HSC §1374.73(c), IC §10144.51(c)):
- Is employed and supervised by a qualified autism service provider;
 - Provides treatment according to a treatment plan developed and approved by the qualified autism service provider;

- Meets criteria set forth in regulations regarding use of paraprofessionals in group practice providing behavioral intervention services; and
 - Is certified by a qualified autism service provider as having adequate education, training, and experience.
- 7) Establishes billing service codes and definitions for the following types of professionals used in regional centers for functions related to behavioral analysis for persons with developmental disabilities: (17 California Code of Regulations (CCR) §54342(a))
- Associate Behavior Analyst;
 - Behavior Analyst;
 - Behavior Management Assistant; and
 - Behavior Management Consultant.

This Bill:

- 1) Establishes the Behavior Analyst Act to license behavior analysts and assistant behavior analysts under the Board of Psychology beginning January 1, 2018. (Business and Professions Code (BPC) §2999.10, et. seq.)
- 2) Defines the “practice of behavior analysis” as the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. It includes all of the following (BPC §2999.12):
 - a) Empirical identification of functional relations between behavior and environmental factors;
 - b) Interventions based on scientific research and direct observation and measurement of behavior and the environment; and
 - c) Utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to help develop new behaviors, increase or decrease existing behaviors, and emit behaviors under specific environmental conditions.
- 3) Specifies that the practice of behavior analysis does not include psychological testing and assessment, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or counseling. (BPC §2999.12)
- 4) Creates the Behavior Analyst Committee, under the jurisdiction of the Board of Psychology, with the mandate to protect the public from unauthorized and unqualified practice of applied behavior analysis. (BPC §2999.25)

5) Licensure as a Behavior Analyst (BPC §§2999.31 and 2999.32)

- i. Requires an applicant for licensure as a Behavior Analyst to maintain active status as a certified behavior analyst with the Behavior Analyst Certification Board (BACB), or another national credentialing organization with a behavior analyst certification program approved by the Board of Psychology and accredited by the National Commission for Certifying Agencies. The applicant must also have passed the BACB's exam or an equivalent exam and a California Law and Ethics Exam.
- ii. Requires the applicant to have met the following requirements:
 - a. Maintain and active status as a certified behavior analyst in good standing with a certifying entity.
 - b. Possess a master's degree or higher in behavior analysis, psychology, education, or conferred in a degree program in which the applicant completed a behavior-analytic course sequence approved by the certifying entity.**
 - c. Completion of one of the following options:

Option One:

Completion of 270 hours of graduate level coursework in specified content areas and either 1,500 hours of supervised independent field work in behavior analysis, 1,000 hours of supervised practicum in behavior analysis, 750 hours of supervised intensive practicum in behavior analysis, or a combination thereof.

Option Two:

Have a faculty appointment of at least three years, within a five year period, of full time work as a faculty member at a fully accredited higher education institution; taught at least five sections of behavior analytic coursework in two acceptable content areas at a graduate level; have published at least one article meeting specified requirements; and have completed supervised experience consisting of either 1,500 hours of independent field work in behavior analysis, 1,000 of supervised practicum in behavior analysis, 750 hours of supervised intensive practicum in behavior analysis, or a combination thereof.

Option Three:

Possess a doctoral degree in behavior analysis, psychology, education from an accredited higher education institution, have at least 10 years of full-time postdoctoral experience practicing behavioral analysis, and at least 500 hours of supplemental supervised experiential training that meets certain criteria.

6) Licensure as an Assistant Behavior Analyst (BPC §§2999.33 and 2999.34)

- i. Requires an applicant for licensure as an Assistant Behavior Analyst to maintain active status as a certified assistant behavior analyst with the Behavior Analyst Certification Board (BACB), or another national credentialing organization approved by the Board of Psychology and accredited by the National Commission for Certifying Agencies. The applicant must also have passed the BACB's exam or an equivalent exam and a California Law and Ethics Exam.
- ii. Requires the applicant to provide proof of ongoing supervision by a licensed behavior analyst.
- iii. Requires the applicant to have a bachelor's degree or higher from an educational institution.
- iv. Requires the applicant to complete 180 hours of undergraduate or graduate instruction in specified content areas, and either 1,000 hours of supervised independent field work in behavior analysis, 670 hours of supervised practicum in behavior analysis, 500 hours of supervised intensive practicum in behavior analysis, or a combination thereof.

7) Requires the education to become a behavior analyst or assistant behavior analyst licensee be from an institution listed by the Council for Higher Education Accreditation. (BPC §2999.35)

8) Prohibits a person from engaging in the practice of behavior analysis, representing his or her self as a licensed behavior analyst or licensed assistant behavior analyst, or using the title or letters, without being licensed (BPC §2999.36).

9) Exempts the following practitioners from the provisions of this licensing act if the person is acting within the scope of his or her licensed scope of practice and within the scope of his or her training and competence (BPC §2999.37):

- a) Licensed psychologists;
- b) Licensed speech language pathologists or audiologists;
- c) Licensed occupational therapists;
- d) Licensed physical therapists;
- e) Licensed marriage and family therapists;
- f) Licensed educational psychologists;
- g) Clinical social workers; and
- h) Licensed professional clinical counselors.

Any of the above individuals must not represent that they are a licensed behavior analyst or licensed assistant behavior analyst, unless they actually hold that license.

10) Exempts certain other, nonlicensed persons from the provisions of this licensing act, including the following (BPC §2999.37):

- a) An individual, including a paraprofessional technician, student, or postdoctoral trainee acting under authority and direction of a licensed behavior analyst, licensed assistant behavior analyst, or one of the license types listed in Item #9 above.
- b) A family member of a recipient of behavior analysis services acting under the authority and direction of a licensed behavior analyst or licensed assistant behavior analyst;
- c) A college or university student practicing as part of a course of study, practicum, internship, or postdoctoral trainee, under supervision by a licensed behavior analyst, psychologist, or an instructor in a course sequence approved by the certifying entity;
- d) An unlicensed individual pursuing supervised experience in behavior analysis;
- e) An individual vendorized by a regional center.

11) Sets forth criteria for renewing a license. (BPC §§2999.44-2999.46)

12) Sets forth unprofessional conduct provisions. (BPC §2999.62)

Comments:

1) Intent of This Bill. Applied Behavior Analysis (ABA) is commonly used to treat autism spectrum disorders. During the past decade, there has been increasing evidence that ABA therapy is effective in the treatment of autism, and there has been an increase in the practice of this profession in California. State law now mandates that insurance plans provide coverage for ABA treatment. However, the California Business and Professions Code does not apply any standard requirements to the practice of ABA.

Because there is no licensure for ABAs, it is difficult for consumers to make an informed decision when choosing an applied behavior analyst. In some cases, ABA programs may be designed, supervised, and/or implemented by someone who lacks training and experience.

The goal of this bill is establish licensure for behavior analysts and assistant behavior analysts, so that individuals with autism are protected from unqualified practitioners.

2) Certification Requirement. In order to qualify for licensure, this bill would require an applicant for a behavior analyst or assistant behavior analyst license to hold an active certification with the Behavior Analyst Certification Board (BACB), or other similar credentialing organization approved by the Board of Psychology.

The BACB is a nonprofit corporation that certifies Board Certified Behavior Analysts (BCBAs) and Board Certified Assistant Behavior Analysts (BCaBAs). The Behavior

Analyst Certification Board's BCBA and BCaBA credentialing programs are accredited by the National Commission for Certifying Agencies in Washington, DC.

According to the author's office, as of March 2014 there were 2,198 practitioners certified by the BACB in California.

Individuals who wish to become a BCBA must meet the following requirements:

- a. Possess a Master's Degree;
- b. Have 270 classroom hours of specific graduate-level coursework;
- c. Meet supervised experience requirements; and
- d. Pass the Board Certified Behavior Analyst Examination.

Persons wishing to become a BCaBA must meet the following requirements:

- a. Possess a Bachelor's Degree;
- b. Have 180 classroom hours of specific coursework;
- c. Meet supervised experience requirements; and
- d. Pass the Board Certified Assistant Behavior Analyst Examination.

All BACB certificants must accumulate continuing education credit to maintain their credentials.

- 3) Exemptions from Licensure.** Section 2999.37 of this bill exempts licensed psychologists, licensed marriage and family therapists, licensed educational psychologists, licensed clinical social workers, and licensed professional clinical counselors from needing a license to practice ABA, provided they are acting within their scope of practice and also within the scope of their training and competence.

Licensed clinical social workers and licensed professional clinical counselors were previously left off of this list, but were added in a recent amendment.

- 4) Dual Licensure.** This bill contains an exemption from ABA licensure that will allow BBS licensees who practice behavior analysis to continue doing so.

However, it may be difficult for a BBS licensee to obtain an ABA license, if he or she wishes to become dually licensed.

BPC Section 2999.32 requires applicants for ABA licensure to do the following:

- Maintain active status in good standing with a certifying entity. Currently, the likely certifying entity is the Behavior Analyst Certification Board (BACB).
- Possess a master's degree or higher in behavior analysis, psychology, or education, or conferred in a degree program containing a behavior-analytic course sequence approved by the certifying entity.

A licensee of this board is more likely to have a master's degree in counseling, social work, or marriage and family therapy, which are not included in the list of acceptable degrees.

Amending the bill to include these degrees may not help in this situation, because a certification with BACB is also required for licensure. Beginning January 1, 2016, the BACB will require a master's degree or higher in behavior analysis, psychology, or education, or conferred in a degree program containing a behavior-analytic course sequence for certification. **Attachment A** shows the degree requirements for BACB certification pre and post 2016.

- 5) Clarification for Interns and Associates Needed.** Section 2999.37(c) of this bill exempts from ABA licensure an individual, including a paraprofessional technician, student, or postdoctoral trainee acting under the authority and direction of a licensed behavior analyst, licensed assistant behavior analyst, or certain other license types including an LMFT, LEP, LCSW, and LPCC.

In order to make it abundantly clear that the Board's interns and associates are included in this exemption from ABA licensure, it may be helpful to specifically include BBS registered interns, associates, and possibly trainees in this category.

- 6) Related Legislation.** AB 796 (Nazarian) proposes modifying the definition of "qualified autism service professional" and "qualified autism service paraprofessional" to allow insurance coverage for types of behavioral health treatment other than ABA.

AB 796 is now a two-year bill.

- 7) Previous Legislation.** AB 1282 (Steinberg, 2010) was proposed in 2010. This bill, which failed passage, attempted to establish a certification process for practitioners of behavior analysis. It would have established the California Behavioral Certification Organization (CBCO), a nonprofit organization that would have provided for the certification and registration of applied behavioral analysis practitioners if they met certain conditions, one of which was being certified by the BACB or a similar entity. The Board took an oppose position on this legislation.

AB 1205 (Berryhill, 2011), proposed licensing behavior analysts and assistant behavior analysts under the Board of Behavioral Sciences. The Board did not take a position on this legislation. The bill died in the Assembly Appropriations Committee.

SB 946 (Chapter 650, Statutes of 2011) requires every health care service plan contract and insurance policy that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for pervasive developmental disorder or autism, effective July 1, 2012.

SB 126 (Chapter 680, Statutes of 2013) extended the provisions of SB 946 until January 1, 2017.

8) Recommended Position. At its April 23, 2015 meeting, the Policy and Advocacy Committee recommended that the Board take a “neutral” position on this bill.

At its May 21, 2015 meeting, the Board discussed this bill, however staff notified the Board that further amendments were expected shortly. Therefore, the Board decided wait until its June 2015 meeting to consider the bill.

9) Support and Opposition.

Support:

- California Association for Behavior Analysis
- Behavior Frontiers
- California Association of Private Special Education Schools
- Center for Learning and Autism Support Services, Inc.
- Clinic 4 Kidz
- Southern California Consortium for Behavior Analysis
- Southwest California Legislative Council
- Numerous individuals

Opposition:

- California Speech-Language-Hearing Association

10)History.

2015

06/03/15 Read third time. Passed. (Ayes 40. Noes 0.) Ordered to the Assembly.

06/02/2015 June 2 Read second time and amended. Ordered to third reading.

06/01/2015 June 1 From committee: Do pass as amended. (Ayes 7. Noes 0.) (May 28).

05/23/2015 May 23 Set for hearing May 28.

05/11/2015 May 11 May 11 hearing: Placed on APPR. suspense file.

05/01/2015 May 1 Set for hearing May 11.

04/28/2015 Apr. 28 From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 0. Page 794.) (April 27). Re-referred to Com. on APPR.

04/10/2015 Apr. 10 Set for hearing April 27.

04/09/2015 Apr. 9 Re-referred to Com. on B., P. & E.D.

11)Attachments.

Attachment A Degree Requirements for BACB Certification Pre and Post 2016.

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Acceptable Degrees

Current BCaBA Degree Requirement (Effective 2/26/2013)

Possession of a minimum of a bachelor's degree from an accredited university.

BACB Degree Documentation Standards

The BACB's degree requirements may only be met after an acceptable degree has been conferred.

Acceptable Documentation of Degree Conferral: an official university transcript clearly showing that the degree has been conferred/awarded and that includes the date of conferral.

If an applicant has met the program requirements for a degree, but the degree has not yet been conferred, the BACB may accept interim documentation, at its discretion, with the stipulation that no final determinations will be made until an official university transcript is received.

Acceptable Interim Documentation: a letter from the university registrar, on university letterhead, verifying that all degree requirements have been met and indicating the date on which the degree will be awarded.

If approval to sit for an exam is issued based on interim documentation, the candidate's exam result will not be released until an official university transcript clearly showing that the degree has been conferred/awarded is received.

Eligibility deadlines, especially those related to changes in eligibility standards, will be assessed based solely upon the date of conferral listed on the official university transcript. Interim documentation cannot be used to bypass BACB deadlines.

Current BCBA Degree Requirement

Effective January 2011, an applicant must have an appropriate graduate degree "from an accredited university, that was conferred in behavior analysis or other natural science, education, human services, engineering, medicine or a field related to behavior analysis and approved by the BACB."

In order to qualify under this degree requirement, you must meet all of the eligibility requirements prior to January 1, 2016 and you must meet the application grace-period deadlines specified in [this FAQ](#).

If your degree was conferred in behavior analysis or one of the approved academic areas listed below, you do not need to take any action.

- Education
- Clinical, counseling, or school psychology
- Clinical social work
- Occupational therapy
- Speech/language therapy
- Engineering
- Medicine

All other degree determinations are made on a case-by-case basis if the coursework that was required for your graduate degree included courses that were behavior analytic in nature. To request consideration of your degree under the current standards, use the form

[Terms of Use and Privacy Policy](#)

About the BACB

About Behavior Analysis

About BACB Credentials

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Quick Links

- CEU Events
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- Doctoral Designation for CBAs

Recent Developments

- BACB Closed for Memorial Day
- May 2015 Newsletter
- Board of Directors Elections



All United States degrees must come from an accredited university as determined by the Council on Higher Education (www.chea.org)

or for Canada:

<http://www.aucc.ca/canadian-universities/our-universities>

<http://www.accc.ca/xp/index.php/en/members/memberinstitutions>

Most universities from outside of the US and Canada will not appear in the above. In those cases, an equivalency evaluation is required. Acceptable equivalency evaluations must be completed by a member of the [National Association of Credential Evaluation Services](#) (NACES) that requires submission of an official, university-issued transcript as a part of their process. Evaluations will not be accepted from members of NACES that do not require official transcripts.

Include a transcript for your degree and/or an equivalency evaluation report with your request.

New BCBA Degree Requirement

Any application for BCBA-level certification that is received or incomplete on **January 1, 2016** will be subject to the following degree requirement:

Possession of a minimum of a master's degree from an accredited university that was (a) conferred in [behavior analysis](#), [education](#), or [psychology](#), or (b) [conferred in a degree program in which the candidate completed a BACB approved course sequence](#).

Form to Request Consideration Under the Current BCBA Degree Requirement

Full Name

Your Highest Degree (enter the full name, e.g., Master of Arts in School Psychology):

Year the Degree Was Conferred:

University that Granted the Degree (enter the full name):

Level of Certification You Would Like to Pursue:

BCBA BCaBA

Your Email Address:

City (US/Canada only):

State / Province (US/Canada only):

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Country:

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Degree inclusion requests are offered as a courtesy to potential applicants, subject to the terms and conditions of the Mandatory Certification Processing Agreement included in all applications for BCBA and BCaBA certification. The BACB reserves the right to modify its rules at any time. It is the responsibility of individuals making a request to remain informed of current BACB requirements. If you have not yet applied for certification, any BACB determination regarding your degree inclusion request is preliminary, subject to final determination upon submission of your full certification application to the BACB.

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 479

Introduced by Senator Bates

February 26, 2015

An act to amend Sections 27 and 2920 of, to amend, repeal, and add Sections 2922, 2923, and 2927 of, to add Chapter 6.7 (commencing with Section 2999.10) to Division 2 of, and to repeal ~~Section 2999.25~~ *Sections 2999.20, 2999.25, 2999.31, and 2999.33* of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 479, as amended, Bates. Healing arts: behavior analysis: licensing.

Existing law provides for the licensure and regulation of various healing arts licensees by various boards, as defined, within the Department of Consumer Affairs, including the Board of Psychology. Under existing law, until January 1, 2017, the board is vested with the power to enforce the Psychology Licensing Law, and consists of 9 members, 4 of whom are public members and 5 of whom are licensed psychologists. Existing law requires the board to post information on its licensees, as specified, including, among others, psychological assistants. Existing law specifies that a quorum of the board requires 5 members.

This bill would, on and after July 1, 2017, increase the number of members on the board to 11, and would increase the number of members for a quorum to 6 members. The bill would require the 2 new members to meet certain requirements, including, but not limited to, that ~~they~~ *one of the new members is qualified to practice behavior analysis, as defined*

This bill would establish the Behavior Analyst Act. The bill would require a person to apply for and obtain a license from the board prior to engaging in the practice of behavior analysis, as defined, either as a behavior analyst or an assistant behavior analyst. The bill would require applicants to, among other things, meet certain educational and training requirements, and submit fingerprints for both a state and federal criminal background check.

This bill would, until January 1, 2021, vest the board with the power to enforce the Behavior Analyst Act, and would require the board to, among other things, post information regarding licensed behavior analysts and licensed assistant behavior analysts, as specified. The bill would, until January 1, 2021, create the Behavior Analyst Committee within the jurisdiction of the board, and would require the committee to be comprised of 5 members who shall be appointed as specified. The bill would authorize the committee to make recommendations to the board regarding the ~~implementation of the act.~~ *regulation of the practice of behavior analysis in the state.*

This bill would define certain terms for these purposes. The bill would require the board to conduct disciplinary hearings, as specified. The ~~bill~~ *bill*, on and after ~~January 1, 2018;~~ *July 1, 2018,* would make it unlawful to, among other things, practice behavior analysis without being licensed by the board, except as specified.

This bill would make a violation of any of these provisions a misdemeanor punishable by 6 months in the county jail or a fine not to exceed \$2,500, or by both imprisonment and a fine. By creating a new crime, this bill would result in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 27 of the Business and Professions Code
- 2 is amended to read:
- 3 27. (a) Each entity specified in subdivisions (c), (d), and (e)
- 4 shall provide on the Internet information regarding the status of

1 every license issued by that entity in accordance with the California
2 Public Records Act (Chapter 3.5 (commencing with Section 6250)
3 of Division 7 of Title 1 of the Government Code) and the
4 Information Practices Act of 1977 (Chapter 1 (commencing with
5 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).
6 The public information to be provided on the Internet shall include
7 information on suspensions and revocations of licenses issued by
8 the entity and other related enforcement action, including
9 accusations filed pursuant to the Administrative Procedure Act
10 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code) taken by the entity
12 relative to persons, businesses, or facilities subject to licensure or
13 regulation by the entity. The information may not include personal
14 information, including home telephone number, date of birth, or
15 social security number. Each entity shall disclose a licensee's
16 address of record. However, each entity shall allow a licensee to
17 provide a post office box number or other alternate address, instead
18 of his or her home address, as the address of record. This section
19 shall not preclude an entity from also requiring a licensee, who
20 has provided a post office box number or other alternative mailing
21 address as his or her address of record, to provide a physical
22 business address or residence address only for the entity's internal
23 administrative use and not for disclosure as the licensee's address
24 of record or disclosure on the Internet.

25 (b) In providing information on the Internet, each entity specific
26 in subdivisions (c) and (d) shall comply with the Department of
27 Consumer Affairs' guidelines for access to public records.

28 (c) Each of the following entities within the Department of
29 Consumer Affairs shall comply with the requirements of this
30 section:

31 (1) The Board for Professional Engineers, Land Surveyors, and
32 Geologists shall disclose information on its registrants and
33 licensees.

34 (2) The Bureau of Automotive Repair shall disclose information
35 on its licensees, including auto repair dealers, smog stations, lamp
36 and brake stations, smog check technicians, and smog inspection
37 certification stations

38 (3) The Bureau of Electronic and Appliance Repair, Home
39 Furnishings, and Thermal Insulation shall disclose information on
40 its licensees and registrants, including major appliance repair

1 dealers, combination dealers (electronic and appliance), electronic
2 repair dealers, service contract sellers, and service contract
3 administrators.

4 (4) The Cemetery and Funeral Bureau shall disclose information
5 on its licensees, including cemetery brokers, cemetery salespersons,
6 cemetery managers, crematory managers, cemetery authorities,
7 crematories, cremated remains disposers, embalmers, funeral
8 establishments, and funeral directors.

9 (5) The Professional Fiduciaries Bureau shall disclose
10 information on its licensees.

11 (6) The Contractors' State License Board shall disclose
12 information on its licensees and registrants in accordance with
13 Chapter 9 (commencing with Section 7000) of Division 3. In
14 addition to information related to licenses as specified in
15 subdivision (a), the board shall also disclose information provided
16 to the board by the Labor Commissioner pursuant to Section 98.9
17 of the Labor Code.

18 (7) The Bureau for Private Postsecondary Education shall
19 disclose information on private postsecondary institutions under
20 its jurisdiction, including disclosure of notices to comply issued
21 pursuant to Section 94935 of the Education Code.

22 (8) The California Board of Accountancy shall disclose
23 information on its licensees and registrants.

24 (9) The California Architects Board shall disclose information
25 on its licensees, including architects and landscape architects.

26 (10) The State Athletic Commission shall disclose information
27 on its licensees and registrants.

28 (11) The State Board of Barbering and Cosmetology shall
29 disclose information on its licensees.

30 (12) The State Board of Guide Dogs for the Blind shall disclose
31 information on its licensees and registrants.

32 (13) The Acupuncture Board shall disclose information on its
33 licensees.

34 (14) The Board of Behavioral Sciences shall disclose
35 information on its licensees, including licensed marriage and family
36 therapists, licensed clinical social workers, licensed educational
37 psychologists, and licensed professional clinical counselors.

38 (15) The Dental Board of California shall disclose information
39 on its licensees.

1 (16) The State Board of Optometry shall disclose information
2 regarding certificates of registration to practice optometry,
3 statements of licensure, optometric corporation registrations, branch
4 office licenses, and fictitious name permits of its licensee

5 (17) The Board of Psychology shall disclose information on its
6 licensees, including psychologists, psychological assistants,
7 registered psychologists, behavior analysts, and assistant behavior
8 analysts.

9 (d) The State Board of Chiropractic Examiners shall disclose
10 information on its licensees.

11 (e) The Structural Pest Control Board shall disclose information
12 on its licensees, including applicators, field representatives, and
13 operators in the areas of fumigation, general pest and wood
14 destroying pests and organisms, and wood roof cleaning and
15 treatment.

16 (f) “Internet” for the purposes of this section has the meaning
17 set forth in paragraph (6) of subdivision (f) of Section 17538.

18 SEC. 2. Section 2920 of the Business and Professions Code is
19 amended to read:

20 2920. (a) The Board of Psychology shall enforce and
21 administer this chapter and Chapter 6.7 (commencing with Section
22 2999.10). The board shall consist of nine members, four of whom
23 shall be public members.

24 (b) On and after July 1, 2017, notwithstanding ~~paragraph~~
25 *subdivision* (a), the board shall consist of 11 members, ~~four~~ *five*
26 of whom shall be public members.

27 (c) This section shall remain in effect only until January 1, 2017,
28 and as of that date is repealed.

29 (d) Notwithstanding any other law, the repeal of this section
30 renders the board subject to review by the appropriate policy
31 committees of the Legislature.

32 SEC. 3. Section 2922 of the Business and Professions Code is
33 amended to read:

34 2922. (a) In appointing the members of the board, except the
35 public members, the Governor shall use his or her judgment to
36 select psychologists who represent, as widely as possible, the varied
37 professional interests of psychologists in California.

38 (b) The Governor shall appoint two of the public members and
39 the five licensed members of the board qualified as provided in

1 Section 2923. The Senate Committee on Rules and the Speaker of
2 the Assembly shall each appoint a public member.

3 (c) This section shall become inoperative on July 1, 2017, and,
4 as of January 1, 2018, is repealed.

5 SEC. 4. Section 2922 is added to the Business and Professions
6 Code, to read:

7 2922. (a) In appointing the licensed members of the board,
8 the Governor shall use his or her judgment to select psychologists
9 and behavior analysts who represent, as widely as possible, the
10 varied professional interests of psychologists and behavior analysts
11 in California.

12 (b) The Governor shall appoint ~~two~~ *three* of the public members
13 and the ~~seven~~ *six* licensed members of the board qualified as
14 provided in Section 2923. The Senate Committee on Rules and
15 the Speaker of the Assembly shall each appoint a public member.

16 (c) This section shall become operative on July 1, 2017.

17 SEC. 5. Section 2923 of the Business and Professions Code is
18 amended to read:

19 2923. (a) Each member of the board shall have all of the
20 following qualifications

21 (1) He or she shall be a resident of this state.

22 (2) Each member appointed, except the public members, shall
23 be a licensed psychologist.

24 (b) The public members shall not be licentiates of the board or
25 of any board under this division or of any board referred to in the
26 Chiropractic Act or the Osteopathic Act.

27 (c) This section shall become inoperative on July 1, 2017, and,
28 as of January 1, 2018, is repealed.

29 SEC. 6. Section 2923 is added to the Business and Professions
30 Code, to read:

31 2923. (a) Each member of the board shall be a resident of this
32 state.

33 (b) Five members of the board shall be licensed as psychologists
34 under this chapter.

35 ~~(e) One member shall be licensed as a psychologist under this
36 chapter and shall be qualified to practice behavior analysis, as
37 defined in Section 2999.12, as follows:~~

38 ~~(1) For the first appointment after the operative date of this
39 section, the member shall hold a certificate as a certified behavior
40 analyst from a certifying entity, as defined in Section 2999.12~~

1 ~~(2) For subsequent appointments, the member shall be licensed~~
2 ~~as a behavior analyst under Chapter 6.7 (commencing with Section~~
3 ~~2999.10).~~

4 ~~(d)~~

5 (c) One member shall be qualified to practice behavior analysis,
6 as defined in Section 2999.12, as follows:

7 (1) For the first appointment after the operative date of this
8 section, the member shall hold a certificate as a certified behavior
9 analyst from a certifying entity, as defined in Section 2999.12

10 (2) For subsequent appointments, the member shall be licensed
11 as a behavior analyst under Chapter 6.7 (commencing with Section
12 2999.10).

13 (d) *One public member appointed by the Governor shall be a*
14 *consumer of behavior analysis services.*

15 (e) The public members shall not be licentiates of the board or
16 of any board under this division or of any board referred to in the
17 Chiropractic Act or the Osteopathic Act.

18 (f) This section shall become operative on July 1, 2017.

19 SEC. 7. Section 2927 of the Business and Professions Code is
20 amended to read:

21 2927. (a) Five members of the board shall at all times
22 constitute a quorum.

23 (b) This section shall become inoperative on July 1, 2017, and,
24 as of January 1, 2018, is repealed.

25 SEC. 8. Section 2927 is added to the Business and Professions
26 Code, to read:

27 2927. (a) Six members of the board shall at all times constitute
28 a quorum.

29 (b) This section shall become operative on July 1, 2017.

30 SEC. 9. Chapter 6.7 (commencing with Section 2999.10) is
31 added to Division 2 of the Business and Professions Code, to read:

32
33 CHAPTER 6.7. BEHAVIOR ANALYSTS

34
35 Article 1. General Provisions

36
37 2999.10. This chapter shall be known and may be cited as the
38 Behavior Analyst Act.

39 2999.11. (a) The Legislature finds and declares that the practice
40 of behavior analysis in California affects the public health, safety,

1 and welfare, and is subject to regulation to protect the public from
2 the unauthorized and unqualified practice of behavior analysis,
3 and unprofessional, ~~unethical~~ *unethical*, or harmful conduct by
4 persons licensed to practice behavior analysis.

5 (b) It is the intent of the Legislature that the board begin
6 accepting applications for behavior analyst licensure and assistant
7 behavior analyst licensure no later than January 1, 2018, provided
8 that the funds necessary to implement this chapter have been
9 appropriated by the Legislature as specified in Section 2999.98

10 2999.12. For purposes of this chapter, the following terms have
11 the following meanings:

12 (a) “Board” means the Board of Psychology.

13 (b) “Certifying entity” means the Behavior Analyst Certificatio
14 Board or its successor, or ~~a national~~ *another national credentialing*
15 organization with ~~a behavior analyst certificatio~~ ~~—program~~
16 *programs* approved by the board and accredited by the National
17 Commission for Certifying Agencies.

18 (c) “Committee” means the Behavior Analyst Committee.

19 (d) “Department” means the Department of Consumer Affairs.

20 (e) “Licensed assistant behavior analyst” means a person
21 licensed under this chapter to practice behavior analysis under the
22 supervision of a licensed behavior analyst and who meets the
23 requirements of Section 2999.33.

24 (f) “Licensed behavior analyst” means a person licensed under
25 this chapter to practice behavior analysis and who meets the
26 requirements of Section 2999.31.

27 (g) (1) “Practice of behavior analysis” or “to practice behavior
28 analysis” means the design, implementation, and evaluation of
29 instructional and environmental modifications to produce socially
30 significant improvements in human behavior and includes ~~any~~ *all*
31 of the following:

32 (A) The empirical identification of functional relations between
33 behavior and environmental factors, known as functional
34 assessment and analysis.

35 (B) Interventions based on scientific research and the direct
36 observation and measurement of behavior and the environment.

37 (C) Utilization of contextual factors, motivating operations,
38 antecedent stimuli, positive reinforcement, and other consequences
39 to help people develop new behaviors, increase or decrease existing

1 behaviors, and emit behaviors under specific environmental
2 conditions.

3 (2) The practice of behavior analysis does not include
4 psychological ~~testing~~, *testing and assessment*, diagnosis of a mental
5 or physical disorder, neuropsychology, psychotherapy, cognitive
6 therapy, sex therapy, psychoanalysis, hypnotherapy, or counseling
7 as treatment modalities.

8
9 Article 2. Administration

10
11 2999.20. (a) The Board of Psychology is vested with the power
12 to administer the provisions and requirements of this chapter, and
13 may make and enforce rules and regulations that are reasonably
14 necessary to carry out its provisions.

15 (b) This section shall remain in effect only until January 1, 2021,
16 and as of that date is repealed. Notwithstanding any other law, the
17 repeal of this section renders the board subject to review by the
18 appropriate policy committees of the Legislature.

19 2999.21. Protection of the public shall be the highest priority
20 for the board in exercising its licensing, regulatory, and disciplinary
21 functions pursuant to this chapter. Whenever the protection of the
22 public is inconsistent with other interests sought to be promoted,
23 the protection of the public shall be paramount.

24 2999.22. ~~Upon recommendation of the committee, the~~ *The*
25 board shall adopt, amend, and repeal regulations to implement the
26 requirements of this chapter. All regulations adopted by the board
27 shall comply with the provisions of Chapter 3.5 (commencing with
28 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
29 Code.

30 2999.23. The board may employ, subject to civil service and
31 other laws, employees as may be necessary to carry out the
32 provisions of this chapter under the direction of the executive
33 officer of the board

34 2999.24. The board shall maintain, and make available to the
35 public, a list of all licensees. The board shall make available on
36 its Internet Web site information regarding the status of every
37 license issued by the board under this chapter pursuant to Section
38 27.

39 2999.25. (a) The Behavior Analyst Committee is hereby
40 created within the jurisdiction of the board to *make*

1 *recommendations to the board regarding the regulation of the*
 2 *practice of behavior analysis in the state in order to protect the*
 3 *public from the unauthorized and unqualified practice of applied*
 4 *behavior analysis, and unprofessional, unethical, or harmful*
 5 *conduct by persons licensed to practice behavior analysis.*

6 (b) The committee shall consist of five members. Two members
 7 shall be licensed behavior ~~analysts~~ *analysts, one of which shall*
 8 *also be a member of the board.* One member shall be a psychologist
 9 licensed under Chapter 6.6 (commencing with Section 2900) ~~who~~
 10 ~~is also a member of the Board of Psychology~~ and who holds a
 11 ~~license~~ *current certification from a certifying entity* as a behavior
 12 analyst. One member shall be a licensed assistant behavior analyst.
 13 One member shall be a public member who is a consumer of
 14 behavior analysis services and who is not licensed under this
 15 chapter, under any chapter within this division, or by any board
 16 referred to in the Chiropractic Act or the Osteopathic Act.

17 (c) The Governor shall appoint one licensed behavior analyst
 18 member, the licensed psychologist member, and the licensed
 19 assistant behavior analyst member. The Senate Committee on
 20 Rules shall appoint the public member, and the Speaker of the
 21 Assembly shall appoint one licensed behavior analyst member.

22 (d) Notwithstanding subdivisions (b) and (c), the initially
 23 appointed members of the committee shall be appointed as follows:

24 (1) The initial members appointed by the Governor shall be as
 25 follows:

26 (A) One member shall ~~hold a certificate~~ *be currently certifie*
 27 *by a certifying entity* as a certified behavior analyst ~~from a~~
 28 ~~certifying entity~~ and shall serve an initial term of one year.

29 (B) One member shall ~~hold a certificate~~ *be currently certifie*
 30 *by a certifying entity* as a certified assistant behavior analyst ~~from~~
 31 ~~a certifying entity~~ and shall serve an initial term of two years.

32 (C) One member shall be a licensed psychologist who ~~holds a~~
 33 ~~certificate~~ *is currently certified by a certifying entity* as a certifie
 34 behavior analyst ~~from a certifying entity~~ and shall serve an initial
 35 term of three years.

36 (2) The initial member appointed by the Senate Committee on
 37 Rules shall serve a term of four years.

38 (3) The initial member appointed by the Speaker of the
 39 Assembly shall ~~hold a certificate~~ *be currently certified by a*

1 *certifying entity* as a certified behavior analyst ~~from a certifying~~
2 ~~entity~~ and shall serve an initial term of four years.

3 (e) Except as provided in ~~paragraph~~ *subdivision* (d), each
4 member of the committee shall hold office for a term of four years,
5 and shall serve until the appointment of his or her successor or
6 until one year has elapsed since the expiration of the term for which
7 he or she was appointed, whichever occurs first. Vacancies shall
8 be filled by the appointing power for the unexpired portion of the
9 terms in which they occur. A member shall not serve for more than
10 two consecutive terms.

11 (f) All terms shall begin on July 1 and expire on June 30.

12 (g) Each member of the committee shall receive per diem and
13 expenses as provided in Sections 103 and 113.

14 (h) Three members of the committee shall at all times constitute
15 a quorum.

16 (i) This section shall become operative on July 1, 2017.

17 (j) This section shall remain in effect only until January 1, 2021,
18 and as of that date is repealed. Notwithstanding any other law, the
19 repeal of this section renders the committee subject to review by
20 the appropriate policy committees of the Legislature.

21 2999.26. The committee shall do all of the following:

22 (a) Meet at least once per quarter. All meetings of the committee
23 shall be public meetings. Notice of each regular meeting of the
24 ~~board committee~~ shall be given in accordance with the
25 Bagley-Keene Open Meeting Act (Article 9 (commencing with
26 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
27 the Government Code).

28 (b) Committee meetings may be called upon reasonable notice
29 at the discretion of the chair, and shall be called at any time upon
30 reasonable notice by a written request of two committee members
31 to the chair.

32 (c) The committee shall elect a chair and a vice chair from
33 among its members at the first meeting held in each fiscal year.
34 The chair shall preside at all meetings of the committee and shall
35 work with the executive officer of the board to coordinate the
36 committee's business. If the chair is unable to attend a meeting,
37 the vice chair shall preside at the meeting.

38 2999.27. (a) The committee may make recommendations to
39 the board regarding licensing and practice standards.

1 (b) The committee may make recommendations to the board
 2 regarding the adoption, amendment, and repeal of regulations to
 3 implement the requirements of this chapter including, but not
 4 limited to, the setting of fees and the establishment of disciplinary
 5 actions: *standards*.

6 ~~2999.28. Any action taken by the committee under this chapter~~
 7 ~~shall only be effective after adoption by majority vote of the~~
 8 ~~members of the committee and after adoption by a majority vote~~
 9 ~~of the members of the board.~~

10
 11 Article 3. Licensing
 12

13 2999.30. To qualify for licensure as a licensed behavior analyst
 14 or a licensed assistant behavior analyst, each applicant shall meet
 15 the board's regulatory requirements for behavior analyst or assistant
 16 behavior analyst licensure, as applicable, including all of the
 17 following:

18 (a) The applicant has not committed acts or crimes constituting
 19 grounds for denial of licensure under Section 480.

20 (b) The board shall not issue a license or registration to any
 21 person who has been convicted of a crime in this state, or another
 22 state, or in a territory of the United States that involves sexual
 23 abuse of a child, or who is required to register pursuant to Section
 24 290 of the Penal Code or the equivalent in another state or territory.

25 (c) The applicant has successfully passed a state and federal
 26 level criminal offender record information search conducted
 27 through the Department of Justice, as follows:

28 ~~(1) The board shall direct applicants to electronically submit to~~
 29 ~~the Department of Justice fingerprint images and related~~
 30 ~~information required by the Department of Justice for the purpose~~
 31 ~~of obtaining information as to the existence and content of a record~~
 32 ~~of state and federal level convictions and arrests and information~~
 33 ~~as to the existence and content of a record of state or federal level~~
 34 ~~arrests for which the Department of Justice establishes that the~~
 35 ~~person is free on bail or on his or her own recognizance pending~~
 36 ~~trial or appeal.~~

37 ~~(2) The Department of Justice shall forward the fingerprin-~~
 38 ~~images and related information received pursuant to paragraph (1)~~
 39 ~~to the Federal Bureau of Investigation and request a federal~~
 40 ~~summary for criminal history information.~~

1 ~~(3) The Department of Justice shall review the information~~
2 ~~returned from the Federal Bureau of Investigation and compile~~
3 ~~and disseminate a response to the board pursuant to paragraph (1)~~
4 ~~of subdivision (p) of Section 11105 of the Penal Code.~~

5 ~~(4)~~

6 (1) The board shall request from the Department of Justice
7 subsequent arrest notification service, pursuant to Section 11105.2
8 of the Penal Code, for each person who submitted information
9 pursuant to ~~paragraph (1)~~: *this subdivision.*

10 ~~(5)~~

11 (2) The Department of Justice shall charge a fee sufficient to
12 cover the cost of processing the request described in this section.

13 2999.31. (a) ~~To~~*In order to* obtain a license as a behavior
14 analyst, an individual shall submit an application on a form
15 approved by the board accompanied by the fees required by the
16 board as specified in Section 2999.93

17 (b) The board shall verify with the certifying entity that the
18 applicant meets ~~all~~ *both* of the following requirements:

19 (1) Has passed the Board Certified Behavior Analyst
20 examination *or an equivalent examination* administered by the
21 ~~Behavior Analyst Certification Board~~ *certifying entity.*

22 (2) Maintains an active status as a certified behavior analyst
23 with the certifying entity.

24 ~~(3) Is in compliance with all ethical and disciplinary standards~~
25 ~~published by the certifying entity.~~

26 (c) Each applicant shall obtain a passing score on a California
27 law and ethics examination administered by the board.

28 (d) *This section shall become inoperative on July 1, 2018. An*
29 *applicant who submits his or her application prior to July 1, 2018,*
30 *shall be required to meet the requirements of this section to be*
31 *licensed by the board.*

32 (e) *This section shall remain in effect only until January 1, 2019,*
33 *and as of that date is repealed.*

34 2999.32. (a) ~~In order for an individual to be licensed to obtain~~
35 ~~a license as a behavior analyst under this chapter, he or she shall~~
36 ~~possess a master's degree or higher level of education from an~~
37 ~~institution, which meets the requirements described in Section~~
38 ~~2999.35, that was conferred in behavior analysis or other natural~~
39 ~~science, education, human services, engineering, medicine, or a~~
40 ~~field related to behavior analysis and approved by the certifying~~

1 ~~entity~~ analyst, an individual shall submit an application on a form
 2 approved by the board accompanied by the fees required by the
 3 board as specified in Section 2999.93

4 (b) An applicant shall maintain active status as a certifie
 5 behavior analyst in good standing with a certifying entity. The
 6 board shall verify with the certifying entity that the applicant has
 7 passed the Board Certified Behavior Analyst Examination or an
 8 equivalent examination administered by the certifying entity.

9 (c) Each applicant shall obtain a passing score on a California
 10 law and ethics examination administered by the board.

11 (d) The applicant shall possess a master's degree or higher
 12 level of education from an institution, which meets the requirements
 13 described in Section 2999.35, that was conferred in behavior
 14 analysis, psychology, or education, or conferred in a degree
 15 program in which the applicant completed a behavior-analytic
 16 course sequence approved by the certifying entity.

17 ~~(b)~~

18 (e) In addition to ~~subdivision (a)~~, subdivisions (a) through (d),
 19 an individual shall meet one of the following paragraphs in order
 20 to be licensed under this chapter:

21 (1) An individual shall have completed both of the following:

22 (A) ~~Completed 270~~ Two hundred seventy hours of classroom
 23 graduate-level instruction in *all of* the following content areas:

24 (i) Ethical and professional conduct coursework consisting of
 25 45 hours. The content must be taught in one or more freestanding
 26 courses devoted to ethical and professional conduct of behavior
 27 analysts.

28 (ii) Concepts and principles of behavior analysis consisting of
 29 45 hours.

30 (iii) Research methods in behavior analysis, consisting of 25
 31 hours of measurement, including data analysis, and 20 hours of
 32 experimental design.

33 (iv) Applied behavior analysis, consisting of 45 hours of
 34 fundamental elements of behavior change and specific behavior
 35 change procedures, 30 hours of identification of the problem and
 36 assessment, 10 hours of intervention and behavior change
 37 considerations, 10 hours of behavior change systems, and 10 hours
 38 of implementation, ~~management~~ management, and supervision.

39 (v) ~~Discretionary~~ Elective coursework in behavior analysis
 40 consisting of 30 hours.

- 1 (B) ~~Obtained experience~~ *Supervised experiential training* by
2 any of the following:
- 3 (i) ~~Completed 1,500~~ *One thousand five hundred* hours of
4 independent field work in behavior analysis supervised in
5 accordance with the requirements of the certifying entity.
- 6 (ii) ~~Completed, with a passing grade, 1,000~~ *One thousand* hours
7 of supervised practicum in behavior analysis within a university
8 practicum approved by the certifying ~~entity and~~ *entity*, taken for
9 graduate academic ~~credit. credit, and completed with a passing~~
10 *grade.*
- 11 (iii) ~~Completed, with a passing grade, 750~~ *Seven hundred fift*
12 hours of supervised intensive practicum in behavior analysis within
13 a university practicum approved by the certifying ~~entity and~~ *entity*,
14 taken for graduate academic ~~credit. credit, and completed with a~~
15 *passing grade.*
- 16 (iv) ~~Completed a~~ *A* combination of the supervised experience
17 in clause (i), (ii), or (iii). Hours may be completed in any
18 combination of the categories of supervised experience. Hours
19 accrued through a combination of supervised experience shall be
20 proportionately calculated.
- 21 (2) An individual shall ~~have done both of the following:~~ *meet*
22 *all of the following requirements:*
- 23 (A) ~~Completed one academic year as a full-time faculty~~
24 ~~appointment at a college or university, as described in Section~~
25 ~~2999.35, during which he or she did all of the following:~~
- 26 (i) ~~Taught classes on basic principles of behavior, single-subject~~
27 ~~research methods, applications of basic principles of behavior in~~
28 ~~applied settings, and ethical issues.~~
- 29 (ii) ~~Conducted and published research in behavior analysis.~~
- 30 (B) ~~Obtained experience by any of the following:~~
- 31 (i) ~~Completed 1,500 hours of independent field work in behavior~~
32 ~~analysis supervised in accordance with the requirements of the~~
33 ~~certifying entity.~~
- 34 (ii) ~~Completed, with a passing grade, 1,000 hours of supervised~~
35 ~~practicum in behavior analysis within a university practicum~~
36 ~~approved by the certifying entity and taken for graduate academic~~
37 ~~credit.~~
- 38 (iii) ~~Completed, with a passing grade, 750 hours of supervised~~
39 ~~intensive practicum in behavior analysis within a university~~

1 practicum approved by the certifying entity and taken for graduate
2 academic credit.

3 (iv) ~~Completed a combination of the supervised experience in~~
4 ~~clause (i), (ii), or (iii). Hours may be completed in any combination~~
5 ~~of the categories of supervised experience. Hours accrued through~~
6 ~~a combination of supervised experience shall be proportionately~~
7 ~~calculated.~~

8 (A) *Have a faculty appointment of at least three years,*
9 *cumulatively, of full-time work as a faculty member at a fully*
10 *accredited higher education institution within a five-year period*

11 (B) *Taught at least five sections or iterations of behavior*
12 *analytic coursework. An applicant shall have taught at least two*
13 *behavior analytic content areas, which are concepts and principles*
14 *of behavior, single-subject research methods, applied behavior*
15 *analysis, and ethics in behavior analysis, in separate courses.*
16 *Each course taught shall have been exclusively or primarily*
17 *devoted to behavior analytic content, and shall have been taught*
18 *at the graduate level. An applicant shall submit proof of completion*
19 *of the faculty appointment and teaching requirements from a*
20 *department head, including the syllabus for each course taught,*
21 *to the board.*

22 (C) *Published one article with all of the following*
23 *characteristics:*

24 (i) *Behavior analytic in nature.*

25 (ii) *Includes at least one experimental evaluation.*

26 (iii) *Published in a high-quality, peer reviewed journal.*

27 (iv) *The applicant is the first, second, or corresponding author.*

28 (v) *The article may have been published at any time during the*
29 *applicant's career.*

30 (D) *Obtained supervised experiential training by any of the*
31 *following:*

32 (i) *One thousand five hundred hours of independent field work*
33 *in behavior analysis supervised in accordance with the*
34 *requirements of the certifying entity.*

35 (ii) *One thousand hours of supervised practicum in behavior*
36 *analysis within a university practicum approved by the certifying*
37 *entity, taken for graduate academic credit, and completed with a*
38 *passing grade.*

39 (iii) *Seven hundred fifty hours of supervised intensive practicum*
40 *in behavior analysis within a university practicum approved by*

1 *the certifying entity, taken for graduate credit, and completed with*
2 *a passing grade.*

3 *(iv) A combination of the supervised experience in clauses (i),*
4 *(ii), or (iii). Hours may be completed in any combination of the*
5 *categories of supervised experience. Hours accrued through a*
6 *combination of supervised experience shall be proportionately*
7 *calculated.*

8 (3) An individual shall have ~~both~~ *completed all* of the following:

9 ~~(i) A doctoral degree, conferred at least 10 years prior to the~~
10 ~~date of application in the field of behavior analysis, psychology,~~
11 ~~education, or a related field approved by the certifying entity.~~

12 *(A) A doctoral degree in behavior analysis, psychology, or*
13 *education from an accredited higher education institution.*

14 ~~(ii)~~

15 ~~(B) Ten years of verified and documented postdoctoral~~
16 ~~experience practicing behavior analysis. The duration of practice~~
17 ~~shall be at least 10 years, cumulatively, of full-time practice. An~~
18 ~~applicant's practice shall have occurred under a relevant state~~
19 ~~professional credential or license.~~

20 ~~(e) If an individual is certified by a certifying entity whose~~
21 ~~requirements for initial certification as a certified behavior analyst~~
22 ~~at the time of license application meet or surpass the requirements~~
23 ~~in subdivisions (a) and (b), the applicant for licensure shall be~~
24 ~~deemed to have satisfied the requirements in subdivisions (a) and~~
25 ~~(b).~~

26 *(C) At least 500 hours of supplemental supervised experiential*
27 *training that meets current experience standards of the certifying*
28 *entity, commencing after the 10 years of postdoctoral experience*
29 *required in paragraph (b).*

30 *(f) This section shall become operative on July 1, 2018.*

31 2999.33. (a) To obtain a license as an assistant behavior
32 analyst, an individual shall submit an application on a form
33 approved by the board accompanied by the fees required by the
34 board as specified in Section 2999.93

35 (b) The board shall verify with the certifying entity that the
36 applicant meets all of the following requirements:

37 (1) Has passed the Board Certified Assistant Behavior Analyst
38 examination *or equivalent examination* administered by the
39 certifying entity.

1 (2) Maintains an active status as a board certified assistant
2 behavior analyst with the certifying entity.

3 ~~(3) Is in compliance with all ethical and disciplinary standards
4 published by the certifying entity.~~

5 (c) Each applicant shall obtain a passing score on a California
6 law and ethics examination administered by the board.

7 (d) Each applicant shall provide proof *to the board* of ongoing
8 supervision by a licensed behavior analyst in a manner consistent
9 with the certifying entity's requirements for supervision of assistant
10 behavior analysts.

11 *(e) This section shall become inoperative on July 1, 2018. An
12 applicant who submits his or her application prior to July 1, 2018,
13 shall be required to meet the requirements of this section to be
14 licensed by the board.*

15 *(f) This section shall remain in effect only until January 1, 2019,
16 and as of that date is repealed.*

17 2999.34. (a) In order for an individual to be licensed as an
18 assistant behavior analyst under this chapter, he or she shall possess
19 a baccalaureate degree or higher level of education from an
20 institution that meets the requirements described in Section
21 2999.35.

22 *(b) An applicant shall maintain active status as a certifie
23 behavior analyst in good standing with a certifying entity. The
24 board shall verify with the certifying entity that the applicant has
25 passed the Board Certified Behavior Analyst Examination or an
26 equivalent examination administered by the certifying entity.*

27 *(c) Each applicant shall obtain a passing score on a California
28 law and ethics examination administered by the board.*

29 *(d) Each applicant shall provide proof to the board of ongoing
30 supervision by a licensed behavior analyst in a manner consistent
31 with the certifying entity's requirements for supervision of assistant
32 behavior analysts.*

33 ~~(b)~~

34 *(e) In addition to ~~subdivision (a)~~, subdivisions (a) to (d),
35 inclusive, an individual shall meet ~~both~~ all of the following
36 requirements in order to be licensed under this chapter:*

37 *(1) Completed a baccalaureate degree or higher level of
38 education from an institution that meets the requirements in Section
39 2999.35.*

40 *(2) An applicant shall meet both of the following:*

- 1 (1)
- 2 (A) Completed 180 classroom hours of undergraduate or
- 3 graduate level instruction in *all of* the following content areas:
- 4 (A)
- 5 (i) Ethical and professional conduct coursework of behavior
- 6 analysis consisting of 15 hours.
- 7 (B)
- 8 (ii) Concepts and principles of behavior analysis consisting of
- 9 45 hours.
- 10 (C)
- 11 (iii) Research methods in behavior analysis, consisting of 10
- 12 hours of measurement, including data analysis, and fi e hours of
- 13 experimental design.
- 14 (D)
- 15 (iv) Applied behavior analysis, consisting of 45 hours of
- 16 fundamental elements of behavior change and specific behavior
- 17 change procedures, 30 hours of identification of the problem and
- 18 assessment, fi e hours of intervention and behavior change
- 19 considerations, fi e hours of behavior change systems, and fi e
- 20 hours of implementation,—~~management~~ *management*, and
- 21 supervision.
- 22 (E) ~~Discretionary~~
- 23 (v) *Elective* coursework in behavior analysis consisting of 15
- 24 hours.
- 25 (2) ~~Obtained experience~~
- 26 (B) *Obtained supervised experiential training* by any of the
- 27 following:
- 28 (A) ~~Completed 1,000~~
- 29 (i) *One thousand* hours of independent field work in behavior
- 30 analysis supervised in accordance with the requirements of the
- 31 certifying-~~entity~~- *entity, taken for academic credit, and completed*
- 32 *with a passing grade.*
- 33 (B) ~~Completed, with a passing grade, 670~~
- 34 (ii) *Six hundred seventy* hours of supervised practicum in
- 35 behavior analysis within a university practicum approved by the
- 36 certifying-~~entity~~- *and entity, taken for academic-credit. credit, and*
- 37 *completed with a passing grade.*
- 38 (C) ~~Completed, with a passing grade, 500~~
- 39 (iii) *Five hundred* hours of supervised intensive practicum in
- 40 behavior analysis within a university practicum approved by the

1 certifying ~~entity and~~ *entity*, taken for academic ~~credit~~. *credit, and*
 2 *completed with a passing grade.*

3 ~~(D) Completed a~~

4 ~~(iv) A combination of the supervised experience in paragraph~~
 5 ~~(A), (B), or (C): clause (i), (ii), or (iii).~~ Hours may be completed
 6 in any combination of the categories of supervised experience.
 7 Hours accrued through a combination of supervised experience
 8 shall be proportionately calculated.

9 ~~(e) If an individual is certified by a certifying entity whose~~
 10 ~~requirements for initial certification as a certified assistant behavior~~
 11 ~~analyst at the time of license application meet or surpass the~~
 12 ~~requirements in subdivisions (a) and (b), the applicant for licensure~~
 13 ~~shall be deemed to have satisfied the requirements in subdivisions~~
 14 ~~(a) and (b).~~

15 ~~(f) This section shall become operative on July 1, 2018.~~

16 2999.35. The education required to obtain a behavior analyst
 17 license or an assistant behavior analyst license shall be from any
 18 of the following:

19 (a) A United States institution of higher education listed by the
 20 Council for Higher Education Accreditation.

21 (b) A Canadian institution of higher education that is a member
 22 of the Association of Universities and Colleges of Canada or the
 23 Association of Canadian Community Colleges.

24 ~~(c) An institution of higher education located outside the United~~
 25 ~~States or Canada that, at the time the applicant was enrolled and~~
 26 ~~at the time the applicant graduated, maintained a standard of~~
 27 ~~training equivalent to the standards of training of those institutions~~
 28 ~~accredited in the United States as demonstrated by a member of~~
 29 ~~the National Association of Credential Evaluation Services.~~

30 ~~(c) An applicant for licensure trained in an educational~~
 31 ~~institution outside the United States or Canada shall demonstrate~~
 32 ~~to the satisfaction of the board that he or she possesses a doctorate~~
 33 ~~degree in a relevant subject that is equivalent to a degree earned~~
 34 ~~from a regionally accredited university in the United States or~~
 35 ~~Canada. Such an applicant shall provide to the board a~~
 36 ~~comprehensive evaluation of the degree performed by a foreign~~
 37 ~~credential service that is a member of the National Association of~~
 38 ~~Credential Evaluation Services (NACES), and any other~~
 39 ~~documentation that the board deems necessary.~~

1 2999.36. On and after ~~January~~ *July* 1, 2018, it shall be unlawful
2 for any person to engage in any of the following acts:

3 (a) Engage in the practice of behavior analysis, as defined in
4 Section 2999.12, without first having complied with the provisions
5 of this chapter and without holding a current, valid, and active
6 license as required by this chapter.

7 (b) Represent himself or herself by the title “licensed behavior
8 analyst,” or “licensed assistant behavior analyst” without being
9 duly licensed according to the provisions of this chapter.

10 (c) Make any use of any title, words, letters, or abbreviations
11 that may reasonably be confused with a designation provided by
12 this chapter to denote a standard of professional or occupational
13 competence without being duly licensed.

14 (d) Materially refuse to furnish the board information or records
15 required or requested pursuant to this chapter.

16 2999.37. This chapter does not apply to any of the following:

17 (a) An individual licensed to practice psychology in this state
18 under Chapter 6.6 (commencing with Section 2900), if the practice
19 of behavior analysis engaged in by the licensed psychologist is
20 within the licensed psychologist’s training and competence.

21 (b) ~~An~~ *A speech-language pathologist or an audiologist licensed*
22 *under Chapter 5.3 (commencing with Section 2530), an*
23 *occupational therapist licensed under Chapter 5.6 (commencing*
24 *with Section 2570), a physical therapist licensed under Chapter*
25 *5.7 (commencing with Section 2600), a marriage and family*
26 *therapist licensed under Chapter 13 (commencing with Section*
27 *4980) or 4980), an educational psychologist licensed under Chapter*
28 *13.5 (commencing with Section ~~4980.10~~ acting 4980.10), a*
29 *clinical social worker licensed under Chapter 14 (commencing*
30 *with Section 4990.1), or a professional clinical counselor licensed*
31 *under Chapter 16 (commencing with Section 4999.10) if the*
32 *behavior analysis engaged in by those licensees is within his or*
33 *her licensed scope of practice and within the scope of his or her*
34 *training and competence, provided that he or she does not represent*
35 *himself or herself as a licensed behavior analyst or licensed*
36 *assistant behavior analyst.*

37 (c) An individual, including a paraprofessional technician,
38 *student, or postdoctoral trainee* acting under the authority and
39 direction of a licensed behavior analyst, a licensed assistant

1 behavior analyst, or an individual described in ~~paragraph~~
2 *subdivision* (a) or (b).

3 (d) A family member of a recipient of behavior analysis services
4 who acts under the extended authority and direction of a licensed
5 behavior analyst or a licensed assistant behavior analyst.

6 (e) A matriculated college or university student who practices
7 behavior analysis as a part of a defined program of study, course,
8 practicum, internship, or postdoctoral ~~fellowship~~, *trainee*, provided
9 that the behavior analysis activities are directly supervised by a
10 licensed behavior ~~analyst~~ *analyst, a licensed psychologist*, or by
11 an instructor in a course sequence approved by the certifying entity.

12 (f) An unlicensed individual pursuing supervised experience in
13 behavior analysis consistent with the experience requirements of
14 the certifying entity, provided such experience is supervised in
15 accordance with the requirements of the certifying entity.

16 (g) An individual who teaches behavior analysis or conducts
17 behavior analytic research, provided that such teaching or research
18 does not involve the direct delivery of behavior analysis services.

19 (h) A behavior analyst licensed in another state or certified by
20 the certifying entity to practice independently, and who temporarily
21 provides behavior analysis services in California during a period
22 of not more than 90 days in a calendar year.

23 (i) An individual who is vendorized by one or more regional
24 centers of the ~~California State~~ Department of Developmental
25 Services while practicing behavior analysis services authorized
26 under that vendorization. That individual shall not represent himself
27 or herself as a licensed behavior analyst or licensed assistant
28 behavior analyst unless he or she holds a license under this chapter,
29 and shall not offer behavior analysis services to any person or
30 entity other than the regional centers with which he or she is
31 vendorized or accept remuneration for providing behavior analysis
32 services other than the remuneration received from those regional
33 centers.

34 (j) An individual employed by a school board performing the
35 duties of his or her position, provided that he or she shall only
36 offer behavior analysis services within the scope of that
37 employment by the school board.

38 ~~2999.40. (a) The board shall issue a license to a person who~~
39 ~~is licensed as a behavior analyst or an assistant behavior analyst~~
40 ~~in another state, if that state currently imposes comparable licensure~~

1 requirements as those required by this state and if that state offers
2 reciprocity to individuals licensed under this chapter. Applicants
3 for a license under reciprocity shall submit an application on a
4 form approved by the board accompanied by the fees required by
5 the board as specified in Section 2999.93. Each applicant shall
6 complete any other eligibility requirements established by the
7 board, including, but not limited to, the criminal background check
8 required by Section 2999.30.

9 (b) The board shall verify that the applicant meets all of the
10 following:

11 (1) Holds an active license as a licensed behavior analyst or
12 licensed assistant behavior analyst in another state.

13 (2) Is not subject to any disciplinary action by another state or
14 certifying entity.

15 (3) Maintains an active status as board certified behavior analyst
16 or board certified assistant behavior analyst with the certifying
17 entity.

18 (4) Is in compliance with all ethical and disciplinary standards
19 published by the certifying entity.

20 (e) Each applicant shall obtain a passing score on a California
21 law and ethics examination administered by the board.

22 2999.41. A licensee shall give written notice to the board of a
23 name change within 30 days after each change, giving both the
24 old and new names. A copy of the legal document authorizing the
25 name change, such as a court order or marriage certificate, shall
26 be submitted with the notice.

27 2999.44. (a) A license shall expire and become invalid two
28 years after it is issued at 12 midnight on the last day of the month
29 in which it was issued, if not renewed.

30 (b) To renew an unexpired license, the licensee shall, on or
31 before the date on which it would otherwise expire, apply for
32 renewal on a form provided by the board, accompanied by the
33 renewal fee set by the board. The board shall obtain verificatio
34 from the certifying entity that the renewal applicant maintains an
35 active certification status with the certifying entit .

36 (c) To renew an assistant behavior analyst license, in addition
37 to the requirements in ~~paragraph~~ *subdivision* (b), the licensee shall
38 submit proof of ongoing supervision by a licensed behavior analyst
39 in a manner consistent with the ~~certifying entity's~~ *board's*
40 requirements for supervision of assistant behavior analysts.

1 2999.45. (a) A license that has expired may be renewed at any
2 time within three years after its expiration by applying for renewal
3 on a form provided by the board, payment of all accrued and unpaid
4 renewal fees, and the delinquency fee specified in Section 2999.93.

5 The board shall obtain verification from the certifying entity of
6 the licensee’s active certification status with the certifying entit .

7 (b) Except as provided in Section 2999.46, a license that is not
8 renewed within three years of its expiration shall not be renewed,
9 restored, or reinstated, and the license shall be canceled
10 immediately upon expiration of the three year-period.

11 2999.46. (a) A suspended license is subject to expiration and
12 shall be renewed as provided in this article, but such renewal does
13 not entitle the licensee, while the license remains suspended, and
14 until it is reinstated, to engage in the licensed activity or in any
15 other activity or conduct in violation of the order or judgment by
16 which the license was suspended.

17 (b) A license revoked on disciplinary grounds is subject to
18 expiration as provided in this article, but it may not be renewed.
19 If it is reinstated after its expiration, the licensee, as a condition
20 of reinstatement, shall pay a reinstatement fee in an amount equal
21 to the renewal fee, plus the delinquency–fee *fee*, and any fees
22 accrued at the time of its revocation.

23

24 Article 4. Enforcement

25

26 2999.60. The board may on its own, and shall, upon the receipt
27 of a complaint from any person, investigate the actions of any
28 licensee. The board shall review a licensee’s alleged violation of
29 statute, regulation, or any other law and any other complaint
30 referred to it by the public, a public agency, or the department,
31 and may upon a finding of a violation take disciplinary action
32 under this article.

33 2999.61. A license issued under this chapter may be denied,
34 revoked, or otherwise sanctioned upon demonstration of
35 ineligibility for licensure, including, but not limited to, failure to
36 maintain active certification by the certifying entity or falsificatio
37 of documentation submitted to the board for licensure or submitted
38 to the certifying authority for certification

39 2999.62. The board may deny a license application, may issue
40 a license with terms and conditions, may suspend or revoke a

1 license, or may place a license on probation if the applicant or
2 licensee has been guilty of unprofessional conduct. Unprofessional
3 conduct shall include, but not be limited to:

4 (a) Conviction of a crime substantially related to the
5 qualifications, functions, or duties of a licensed behavior analyst
6 or a licensed assistant behavior analyst.

7 (b) Use of any controlled substance as defined in Division 10
8 (commencing with Section 11000) of the Health and Safety Code,
9 dangerous drug, or any alcoholic beverage to an extent or in a
10 manner dangerous to himself or herself, any other person, or the
11 public, or to an extent that this use impairs his or her ability to
12 safely perform the practice of behavior analysis.

13 (c) Fraudulently or neglectfully misrepresenting the type or
14 status of a license actually held.

15 (d) Impersonating another person holding a license or allowing
16 another person to use his or her license.

17 (e) Use of fraud or deception in applying for a license or in
18 passing any examination required by this chapter.

19 (f) Paying, offering to pay, accepting, or soliciting any
20 consideration, compensation, or remuneration, whether monetary
21 or otherwise, for the referral of clients.

22 (g) Violating Section 17500.

23 (h) Willful, unauthorized communication of information
24 received in professional confidence

25 (i) Violating any rule of professional conduct promulgated by
26 the board and set forth in regulations duly adopted under this
27 chapter.

28 (j) Being grossly negligent in the practice of his or her
29 profession.

30 (k) Violating any of the provisions of this chapter or regulations
31 duly adopted thereunder.

32 (l) The aiding or abetting of any person to engage in the unlawful
33 practice of behavior analysis.

34 (m) The suspension, revocation, or imposition of probationary
35 conditions or other disciplinary action by another state or country
36 of a license, certificate, or registration to practice behavior analysis
37 issued by that state or country to a person also holding a license
38 issued under this chapter if the act for which the disciplinary action
39 was taken constitutes a violation of this section. A certified copy

1 of the decision or judgment of the other state or country shall be
2 conclusive evidence of that action.

3 (n) The commission of any dishonest, corrupt, or fraudulent act.

4 (o) Any act of sexual abuse or sexual relations with a patient or
5 former patient within two years following termination of therapy,
6 or sexual misconduct that is—~~substantially~~ related to the
7 qualifications, functions, or duties of a licensed behavior analyst
8 or a licensed assistant behavior analyst.

9 (p) Functioning outside of his or her particular field or fields of
10 competence as established by his or her education, training, and
11 experience.

12 (q) Willful failure to submit, on behalf of an applicant for
13 licensure, verification of supervised xperience to the board.

14 (r) Repeated acts of negligence.

15 (s) Failure to comply with all ethical and disciplinary standards
16 published by the certifying entity.

17 2999.63. (a) Except as provided in subdivisions (b), (c), and
18 (e), any accusation filed against a licensee pursuant to Section
19 11503 of the Government Code shall be filed within three years
20 from the date the board discovers the alleged act or omission that
21 is the basis for disciplinary action, or within seven years from the
22 date the alleged act or omission that is the basis for disciplinary
23 action occurred, whichever occurs first

24 (b) An accusation filed against a licensee pursuant to Section
25 11503 of the Government Code alleging the procurement of a
26 license by fraud or misrepresentation is not subject to the
27 limitations set forth in subdivision (a).

28 (c) The limitation provided for by subdivision (a) shall be tolled
29 for the length of time required to obtain compliance when a report
30 required to be filed by the licensee or registrant with the board
31 pursuant to Article 11 (commencing with Section 800) of Chapter
32 1 is not filed in a timely ashion.

33 (d) If an alleged act or omission involves a minor, the seven-year
34 limitations period provided for by subdivision (a) and the 10-year
35 limitations period provided for by subdivision (e) shall be tolled
36 until the minor reaches the age of majority.

37 (e) An accusation filed against a licensee pursuant to Section
38 11503 of the Government Code alleging sexual misconduct shall
39 be filed within three years after the board discovers the act or
40 omission alleged as the ground for disciplinary action, or within

1 10 years after the act or omission alleged as the ground for
2 disciplinary action occurs, whichever occurs first

3 (f) The limitations period provided by subdivision (a) shall be
4 tolled during any period if material evidence necessary for
5 prosecuting or determining whether a disciplinary action would
6 be appropriate is unavailable to the board due to an ongoing
7 criminal investigation.

8 2999.64. Notwithstanding Section 2999.62, any proposed
9 decision or ~~decision~~ *decisions* issued under this chapter in
10 accordance with the procedures set forth in Chapter 5 (commencing
11 with Section 11500) of Part 1 of Division 3 of Title 2 of the
12 Government Code that contains any finding of fact that the licensee
13 engaged in any act of sexual contact, as defined in Section 728,
14 when that act is with a patient, or with a former patient, within two
15 years following termination of services, shall contain an order of
16 revocation. The revocation shall not be stayed by the administrative
17 law judge.

18 2999.66. The board may deny an application for, or issue
19 subject to terms and conditions, or suspend or revoke, or impose
20 probationary conditions upon, a license or registration after a
21 hearing as provided in Section 2999.70.

22 2999.67. A plea or verdict of guilty or a conviction following
23 a plea of nolo contendere made to a charge which is substantially
24 related to the qualifications, functions, and duties of a licensed
25 behavior analyst or licensed assistant behavior analyst is deemed
26 to be a conviction within the meaning of this article. The board
27 may order the license suspended or revoked, or may decline to
28 issue a license when the time for appeal has elapsed, the judgment
29 of conviction has been affirmed on appeal, or when an order
30 granting probation is made suspending the imposition of sentence,
31 irrespective of a subsequent order under Section 1203.4 of the
32 Penal Code allowing the person to withdraw his or her plea of
33 guilty and to enter a plea of not guilty, or setting aside the verdict
34 of guilty, or dismissing the accusation, information, or indictment.

35 2999.68. Any person required to register as a sex offender
36 pursuant to Section 290 of the Penal Code, is not eligible for
37 licensure by the board.

38 2999.69. An administrative disciplinary decision that imposes
39 terms of probation may include, among other things, a requirement

1 that the licensee who is being placed on probation pay the monetary
2 costs associated with monitoring the probation.

3 2999.70. The proceedings under this article shall be conducted
4 by the board in accordance with Chapter 5 (commencing with
5 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
6 Code.

7 2999.80. A person who violates any of the provisions of this
8 chapter is guilty of a misdemeanor punishable by imprisonment
9 in a county jail not exceeding six months or by a fine not exceeding
10 two thousand five hundred dollars (\$2,500), or by both that fin
11 and imprisonment.

12 2999.81. In addition to other proceedings provided in this
13 chapter, whenever any person has engaged, or is about to engage,
14 in any acts or practices that constitute, or will constitute, an offense
15 against this chapter, the superior court in and for the county
16 wherein the acts or practices take place, or are about to take place,
17 may issue an injunction or other appropriate order restraining that
18 conduct on application of the board, the Attorney General, or the
19 district attorney of the county. Proceedings under this section shall
20 be governed by Chapter 3 (commencing with Section 525) of Title
21 7 of Part 2 of the Code of Civil Procedure, except that it shall be
22 presumed that there is no adequate remedy at law and that
23 irreparable damage will occur if the continued violation is not
24 restrained or enjoined. On the written request of the board, or on
25 its own motion, the board may commence an action in the superior
26 court under this section.

27
28 Article 5. Revenue
29

30 2999.90. The board shall report each month to the Controller
31 the amount and source of all revenue received pursuant to this
32 chapter and at the same time deposit the entire amount thereof in
33 the State Treasury for credit to the Psychology Fund established
34 by Section 2980.

35 2999.91. (a) The moneys credited to the Psychology Fund
36 under Section 2999.90 shall, upon appropriation by the Legislature,
37 be used for the purposes of carrying out and enforcing the
38 provisions of this chapter.

39 (b) The board shall keep records that will reasonably ensure
40 that funds expended in the administration of each licensing

1 category bear a reasonable relation to the revenue derived from
2 each category, and shall so notify the department no later than
3 May 31 of each year.

4 2999.93. The board shall ~~assess~~ *establish* fees for the
5 application for and the issuance and renewal of licenses to cover,
6 but not exceed, ~~administrative and operating expenses the~~
7 *reasonable regulatory costs* of the board related to *administering*
8 this chapter. The fees shall be fi ed by the board in regulations
9 that are duly adopted under this chapter. Fees assessed pursuant
10 to this section shall not exceed the following:

11 ~~(a) The fee for the application for licensure shall be not more~~
12 ~~than _____ dollars (\$_____).~~

13 ~~(b) The fee for the law and ethics examination shall be not more~~
14 ~~than _____ dollars (\$_____).~~

15 ~~(c) The fee for the issuance of a license shall be not more than~~
16 ~~_____ dollars (\$_____).~~

17 ~~(d) The fee for a biennial renewal of a license shall be not more~~
18 ~~than _____ dollars (\$_____).~~

19 ~~(e)~~

20 ~~(a)~~ The delinquency fee shall be 50 percent of the biennial
21 renewal fee.

22 ~~(f)~~

23 ~~(b)~~ The fee for rescoring an examination shall be twenty dollars
24 (\$20).

25 ~~(g)~~

26 ~~(c)~~ The fee for issuance of a replacement license shall be twenty
27 dollars (\$20).

28 ~~(h) The fee to change a name or address on the board's records~~
29 ~~shall be twenty dollars (\$20).~~

30 ~~(i)~~

31 ~~(d)~~ The fee for issuance of a certificate or letter of good standing
32 shall be twenty-fi e dollars (\$25).

33 2999.94. (a) A person licensed under this chapter is exempt
34 from the payment of the renewal fee in any one of the following
35 instances:

36 (1) While engaged in full-time active service in the *United States*
37 *Army, Navy, Air Force, or Marines: Marine Corps.*

38 (2) While in the United States Public Health Service.

39 (3) While a volunteer in the Peace Corps or ~~Vista: AmeriCorps~~
40 *VISTA.*

1 (b) Every person exempted from the payment of the renewal
 2 fee by this section shall not engage in any private practice and
 3 shall become liable for the fee for the current renewal period upon
 4 the completion of his or her period of full-time active service and
 5 shall have a period of 60 days after becoming liable within which
 6 to pay the fee before the delinquency fee becomes applicable. Any
 7 person who completes his or her period of full-time active service
 8 within 60 days of the end of a renewal period is exempt from the
 9 payment of the renewal fee for that period.

10 (c) The time spent in that full-time active service or full-time
 11 training and active service shall not be included in the computation
 12 of the three-year period for renewal of an expired license specific
 13 in Section 2999.45.

14 (d) The exemption provided by this section shall not be
 15 applicable if the person engages in any practice for compensation
 16 other than full-time service in the *United States Army, Navy, Air*
 17 *Force or ~~Marines or Marine Corps~~*, in the *United States Public*
 18 *Health ~~Service Service~~*, or the *Peace Corps or ~~Vista~~. AmeriCorps*
 19 *VISTA*.

20 2999.98. The licensing and regulatory program under this
 21 chapter shall be supported from fees assessed to applicants and
 22 licensees. Startup funds to implement this program shall be derived,
 23 as a loan, from the ~~reserve fund of the Board of Psychology,~~
 24 *Psychology Fund*, subject to an appropriation by the Legislature
 25 in the annual Budget Act. The board shall not implement this
 26 chapter until funds have been appropriated.

27 SEC. 10. No reimbursement is required by this act pursuant to
 28 Section 6 of Article XIII B of the California Constitution because
 29 the only costs that may be incurred by a local agency or school
 30 district will be incurred because this act creates a new crime or
 31 infraction, eliminates a crime or infraction, or changes the penalty
 32 for a crime or infraction, within the meaning of Section 17556 of
 33 the Government Code, or changes the definition of a crime within
 34 the meaning of Section 6 of Article XIII B of the California
 35 Constitution.

O

3. **Supervision Requirements:** The Board asked whether licensees supervising violence peer counselors should be required to have some education and experience providing supervision.
4. **Cost to Service Organizations for Victims of Violent Crime:** Questions were raised about the cost to service organizations for victims of violent crime to employ a Board licensee as a supervisor.
5. **LEPs as Supervisors:** The language includes LEPs as acceptable supervisors for violence peer counselors; however, LEPs do not typically perform clinical supervision services.

Upon learning of the Board's concerns, the author's office attempted to make amendments to address some of the concerns, but it was too late in the legislative session to do so. Therefore, they have committed to making clarifying amendments in this year's legislative session. They have worked with Legislative Counsel to draft amendments, which they have provided for review (**Attachment A**).

Unclear Language

While several of the underlying issues raised by the Board are important topics, some of those issues may be best resolved with future legislation or in the Board's upcoming exempt setting committee. From conversations with the author's office, staff believes it is most likely that they will agree to amending language which is unclear about violence peer counselors' practice scope and settings.

The following language is of particular concern:

- Government Code (GC) §13957.9(c)(1) defines a "service organization for victims of violent crime" as a nongovernmental organization. (This implies it could be a private practice setting).
- GC §13957.9(c)(3) defines a "violence peer counselor" as a provider of formal or informal counseling services. (It is unclear if "formal" counseling services would rise to a clinical level where a license is needed.)

Proposed Amendments

Currently, the proposed amendments drafted by Legislative Counsel and provided by the author's office clarify the following:

- A "service organization for victims of violent crime" in which violence peer counselors perform services eligible for reimbursement must be both nonprofit and charitable.
- Violence peer counseling services that fall under the scope of practice of any of the professions the Board regulates must either take place in an exempt setting, or be performed by an appropriately licensed professions.

Additional Requested Amendment

At its January 30, 2015 meeting, the Board's Policy and Advocacy Committee considered the amendments presented by the author's office. The Committee requested one additional amendment, as follows:

- GC §13957.9(c)(3) "Violence peer counselor" means a provider of ~~formal or informal~~ supportive and non-psychotherapeutic peer counseling services who is employed by a service organization for victims of violent crime, whether financially compensated or not, and who meets all of the following requirements:..."

The Committee believes that the term "formal or informal counseling services" is unclear. For example, would "formal" counseling services rise to the level of requiring a license? It believes that the above amendment more clearly defines the nature of services that a violence peer counselor would provide.

Next Steps

The author's office has indicated it can place these amendments in a bill that contains similar subject matter. That bill, AB 1140, is shown in **Attachment D**.

Recommendation

Conduct an open discussion regarding the author's proposed amendments, and the Committee's suggested amendment.

Adopt a position of "support" for the amendments to Government Code Section 13957.9, if the Policy and Advocacy Committee's suggested amendment is included.

Attachments

Attachment A: Proposed Amendments from Legislative Counsel to Address Board Concerns

Attachment B: AB 1629 Board Analysis

Attachment C: AB 1629 Chaptered Language (effective January 1, 2015)

Attachment D: AB 1140 (Bonta) California Victim Compensation and Government Claims Board

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**OFFICE OF LEGISLATIVE COUNSEL
DRAFT BILL**

RN: 1425268

This request was prepared for you in accordance with instructions provided to us by Amy Alley.

LCB Deputy Contact:Ms. Amanda Mattson at 341-8352.

The boxes checked below, if any, apply to this request:

- Cover letter:** This request is accompanied by a cover letter, to bring to your attention legal or practical issues that may be raised by this bill, if introduced.
- Unbacked bill:** The attached bill draft has **not** been backed for introduction. When a Member has decided to introduce this bill draft, the draft should be returned to the Office of Legislative Counsel as soon as possible so that it can be prepared for introduction by that Member.
- Spot bill:** This bill, if introduced, may not be qualified for referral to a committee, if it is deemed a bill that makes no substantive change in or addition to existing law, or that would not otherwise affect the ongoing operations of state or local government (see, for example, Assembly Rule 51.5).
- Bill related to the budget:** In order for this measure to be deemed a bill “providing for appropriations related to the budget” within the meaning of Section 12 of Article IV of the California Constitution, thereby allowing the measure to be passed by a majority vote and to take effect immediately upon enactment, it is necessary that this measure contain an appropriation and be identified in the Budget Bill as a measure related to the state budget.
- Reintroduced bill:** This bill, if introduced, may violate the rule that, except as specified, a Member may not author a bill during a session that would have substantially the same effect as a bill he or she previously introduced during that session (Joint Rule 54(c)).

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An act to amend Section 13957.9 of the Government Code, relating to crime victims, and declaring the urgency thereof, to take effect immediately.



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

SECTION 1. Section 13957.9 of the Government Code, as added by Section 1 of Chapter 535 of the Statutes of 2014, is amended to read:

13957.9. (a) In addition to the authorization provided in Section 13957 and subject to the limitations set forth in Section 13957.2, the board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, reimbursement of 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 violence peer counseling services provided by a service organization for victims of violent crime, and including family psychiatric, psychological, or mental health counseling 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:

(1) 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):

(A) A victim.

(B) 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.

(C) 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.



(2) 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):

(A) A derivative victim not eligible for reimbursement pursuant to paragraph (1), 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.

(B) 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.

(C) 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.

(3) The board may reimburse a victim or derivative victim for outpatient mental health counseling in excess of that authorized by paragraph (1) or (2) 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.

(4) 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:



(A) 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.

(B) 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.

(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.

(c) For the purposes of this section, the following definitions shall apply:

(1) "Service organization for victims of violent crime" means a ~~nongovernmental~~ nonprofit and charitable organization that meets both of the following criteria:

(A) Its primary mission is to provide services to victims of violent crime.

(B) It provides programs or services to victims of violent crime and their families, and other programs, whether or not a similar program exists in an agency that provides additional services.

(2) "Violence peer counseling services" means counseling by a violence peer counselor for the purpose of rendering advice or assistance for victims of violent crime and their families. Any violence peer counseling services that fall under the scope of practice of the Licensed Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980), the Educational Psychologist Practice Act (Chapter 13.5 (commencing with Section 4989.10), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991), and the Licensed Professional Clinical Counselor Act (Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business



and Professions Code, which are not performed in an exempt setting as defined in Sections 4980.01, 4996.14, and 4999.22 of the Business and Professions Code, shall only be performed by a licensee or a registrant of the Board of Behavioral Sciences or other appropriately licensed professional, such as a licensed psychologist or board certified psychiatrist.

(3) “Violence peer counselor” means a provider of formal or informal counseling services who is employed by a service organization for victims of violent crime, whether financially compensated or not, and who meets all of the following requirements:

(A) Possesses at least six months of full-time equivalent experience in providing peer support services acquired through employment, volunteer work, or as part of an internship experience.

(B) Completed a training program aimed at preparing an individual who was once a mental health services consumer to use his or her life experience with mental health treatment, combined with other strengths and skills, to promote the mental health recovery of other mental health services consumers who are in need of peer-based services relating to recovery as a victim of a violent crime.

(C) Possesses 40 hours of training on all of the following:

(i) The profound neurological, biological, psychological, and social effects of trauma and violence.

(ii) Peace-building and violence prevention strategies, including, but not limited to, conflict mediation and retaliation prevention related to gangs and gang-related violence.



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(iii) Post-traumatic stress disorder and vicarious trauma, especially as related to gangs and gang-related violence.

(iv) Case management practices, including, but not limited to, ethics and victim compensation advocacy.

(D) When providing violence peer counseling services, is supervised by a marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, a licensed educational psychologist licensed pursuant to Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code, a clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, or a licensed professional clinical counselor licensed pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code. For the purposes of this subparagraph, a licensed marriage and family therapist, licensed educational psychologist, licensed clinical social worker, or licensed professional clinical counselor shall be employed by the same service organization as the violence peer counselor.

(d) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:



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In order to ensure that an unlicensed violence peer counselor is not practicing outside of his or her scope of practice, it is necessary for this act to take effect immediately.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Crime victims: reimbursement of violence peer counseling expenses.

Existing law provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and specified limits on the amount of compensation the board may award. Existing law, effective January 1, 2015, authorizes the board to reimburse a crime victim or derivative victim for the amount of outpatient violence peer counseling-related expenses incurred by the victim or derivative victim from, among others, a service organization for victims of violent crime, as specified.

This bill would specify that a service organization for victims of violent crime is a nonprofit and charitable organization instead of a nongovernmental organization. The bill would also require that any peer counseling services that fall under the scope



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of practice of certain acts, including the Clinical Social Worker Practice Act, be performed by a licensee or a registrant of the Board of Behavioral Sciences or other appropriately licensed professional unless in an exempt setting.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.



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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1629 **VERSION:** AMENDED AUGUST 21, 2014

AUTHOR: BONTA **SPONSOR:** YOUTH ALIVE

BOARD POSITION: OPPOSE UNLESS AMENDED

SUBJECT: CRIME VICTIMS: COMPENSATION: REIMBURSEMENT OF VIOLENCE PEER
COUNSELING EXPENSES

Overview: This bill would make costs incurred for certain services provided by violence peer counselors reimbursable to crime victims through the California Victim Compensation Board.

Existing Law:

- 1) Sets forth a procedure for the state to assist crime victims in obtaining compensation for certain losses suffered as a direct result of a criminal act. (Government Code (GC) §13950)
- 2) Defines “peer counseling” as counseling offered by a provider of mental health counseling services who does the following (GC §13951(f)):
 - a. Has completed a course in rape crisis counseling skills development;
 - b. Participates in continuing education in rape crisis counseling skills development; and
 - c. Provides rape crisis counseling in California.
- 3) Permits the California Victim Compensation and Government Claims Board (CA Victim Compensation Board) to reimburse certain medical, outpatient psychiatric, psychological, or other mental-health counseling-related expenses incurred by a crime victim. This includes peer counseling services provided by a rape crisis center. (GC §13957(a))
- 4) Allows psychiatric, psychological, or other mental health counseling services to be reimbursed only if the services were provided as follows (GC §13957(a)):
 - a. By a person who was authorized to provide the services pursuant to GC §13959 as it read on January 1, 2002;
 - b. By a person licensed by the state to provide the services; or
 - c. By a person properly supervised by a licensed person.
- 5) States that payments by the CA Victim Compensation Board for peer counseling provided by a rape crisis center may not exceed \$15 per hour of service. (GC §13957.7(d))

This Bill:

- 1) Includes peer counseling services provided by a violence peer counselor at a service organization for victims of violent crime, as one of the services for which the California Victim Compensation Board is permitted to reimburse a victim. (GC §13957.9(a)(2))

- 2) Defines a “service organization for victims of violent crime” as a nongovernmental organization with a primary mission to provide services to victims of violent crime, and which provides such services to these victims and their families. (GC §13957.9(c)(1))
- 3) Defines “violence peer counseling services” as counseling by a violence peer counselor in order to render advice to a violent crime victim and his or her family. (GC §13957.9(c)(1)(2))
- 4) Defines a “violence peer counselor” as a provider of formal or informal counseling services who is employed by a service organization for victims of violent crime, whether or not they are financially compensated. The violence peer counselor must meet the following criteria: (GC §13957.9(c)(3))
 - a. Has at least six months full-time equivalent experience providing peer support services, acquired through employment, volunteering, or an internship;
 - b. Has completed a training program to prepare an individual who was once a mental health services consumer to use his or her life experience with mental health treatment to promote the mental health recovery of others who were victims of a violent crime;
 - c. Possess 40 hours of training in the following areas:
 - i. The neurological, biological, psychological, and social effects of trauma and violence;
 - ii. Peace-building and violence prevention strategies; and
 - iii. Post-traumatic stress disorder and vicarious trauma.
 - d. Requires a violence peer counselor to be supervised by a licensee of the Board of Behavioral Sciences when providing violence peer counseling services. The licensee must be employed by the same service organization as the violence peer counselor. (GC §13957.9(c)(3)(D))

Comment:

- 1) **Existing Law.** Under the Board’s current licensing law, a license is required to practice marriage and family therapy, educational psychology, clinical social work, and professional clinical counseling in this state. The only exception is for employees working in an exempt setting, which must be one of the following:
 - i. A governmental entity;
 - ii. A school, college, or university;
 - iii. An institution that is both nonprofit and charitable.
- 2) **Definition Unclear.** This bill defines a “violence peer counselor” who is eligible for reimbursement from the CA Victim Compensation Board as a provider of formal or informal counseling services, who is employed by a service organization for victims of violent crime. The violence peer counselor must have six months experience, complete specified training programs, and be supervised by a Board licensee.

This bill also defines a “service organization for victims of violent crime” as a nongovernmental organization with a primary mission of providing services to victims of violent crime, and which provides these services to both victims and their families.

Staff has two primary concerns with these definitions:

- a. The bill permits a “violence peer counselor” to receive reimbursement for providing formal or informal counseling services. This definition is very broad. The term “formal counseling services” is not defined. It is unclear whether formal counseling services would rise to the level of psychotherapy or clinical practice for which a Board license would be required. In addition, the education and experience required for a violence peer counselor does not come close to the education and experience required for an associate or intern registration for any of the Board’s license types.

If the formal counseling services do rise to the level where a license would be required, the language seems to create an exemption from licensure, permitting only a minimal amount of training and experience, as well as supervision by a Board licensee, in order to obtain reimbursement for practice.

- b. The definition of “service organization for victims of violent crime” is overly broad and does not specify that the service organization must be nonprofit and charitable. It simply states that it may be any nongovernmental organization that meets certain criteria. Under Board licensing law, psychotherapeutic or clinical services may only be performed by unlicensed practitioners if the entity is both nonprofit and charitable.

The consequences of the unclear language are twofold. First, it is misleading because it could imply to an unlicensed violence peer counselor that he or she may practice psychotherapy in a private practice setting without a license, even though that is a violation of the Board’s practice acts. Second, it could also mislead a Board licensee, who is supervising a violence peer counselor, into believing that his or her violence peer counselor supervisee does not need to be licensed or registered, even if they are in a non-exempt setting. If the violence peer counselor then provides clinical or psychotherapeutic services in a non-exempt setting, this would be grounds for the supervising licensee to receive disciplinary action for violating the Board’s licensing law.

- 3) **Recommended Amendment.** Staff recommends that definitions of a “violence peer counselor,” “violence peer counseling services,” and “service organization for victims of violent crime” be amended to clarify that services falling under the scope of practice of the Board’s licensing acts, conducted in a non-exempt setting, require licensure or registration with the Board.
- 4) **Board Position.** At its August 28, 2014 meeting, the Board took an “Oppose Unless Amended” position on this bill. The Board’s members were supportive of the concept of the bill. They also noted that the August 19, 2014 amendment requiring violence peer counselors to be supervised by the Board’s licensees has merit and is a step in the right direction to achieve public protection.

However, the Board was concerned that the addition of its licensees as supervisors raised a number of important questions, and that the language in this bill needs further vetting to avoid possible unintended consequences.

5) Support and Opposition.

Support:

- Youth Alive (sponsor)
- AFSCME
- California Catholic Conference
- California Equity Leaders Network
- California Pan-Ethnic Health Network
- Californians for Safety and Justice

- Children's Defense Fund-California
- City of Oakland
- Crime Victims United of California
- National Network of Hospital-based Violence Intervention Programs
- PolicyLink
- San Francisco Wraparound Project
- Wellspace Health

Opposition:

- Taxpayers for Improving Public Safety

6) History.

2014

09/25/14 Chaptered by Secretary of State - Chapter 535, Statutes of 2014.

09/25/14 Approved by the Governor.

09/10/14 Enrolled and presented to the Governor at 4 p.m.

08/28/14 Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 79. Noes 0. Page 6628.).

08/28/14 Assembly Rule 77 suspended. (Page 6616.)

08/27/14 In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 29 pursuant to Assembly Rule 77.

08/27/14 Read third time. Passed. Ordered to the Assembly. (Ayes 36. Noes 0. Page 4897.).

08/22/14 Read second time. Ordered to third reading.

08/21/14 Read third time and amended. Ordered to second reading.

08/19/14 Read second time and amended. Ordered to third reading.

08/18/14 From committee: Do pass as amended. (Ayes 5. Noes 0.) (August 14).

08/04/14 In committee: Placed on APPR. suspense file.

06/24/14 In committee: Set, first hearing. Hearing canceled at the request of author.

06/17/14 From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 0.) (June 17). Re-referred to Com. on APPR.

06/05/14 Referred to Com. on PUB. S.

05/28/14 In Senate. Read first time. To Com. on RLS. for assignment.

05/28/14 Read third time. Passed. Ordered to the Senate. (Ayes 79. Noes 0. Page 5242.)

05/27/14 Read second time. Ordered to third reading.

05/23/14 Read second time and amended. Ordered to second reading.

05/23/14 From committee: Do pass as amended. (Ayes 17. Noes 0.) (May 23).

04/09/14 In committee: Set, first hearing. Referred to APPR. suspense file.

03/26/14 From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (March 25). Re-referred to Com. on APPR.

02/20/14 Referred to Com. on PUB. S.

02/11/14 From printer. May be heard in committee March 13.

02/10/14 Read first time. To print.

Assembly Bill No. 1629

CHAPTER 535

An act to add and repeal Section 13957.9 of the Government Code, relating to crime victims, and making an appropriation therefor.

[Approved by Governor September 25, 2014. Filed with Secretary of State September 25, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1629, Bonta. Crime victims: compensation: reimbursement of violence peer counseling expenses.

Existing law provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and specified limits on the amount of compensation the board may award. Existing law authorizes the board to reimburse a crime victim or derivative victim for the amount of outpatient mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center, as specified.

This bill would additionally, until January 1, 2017, authorize the board to reimburse a crime victim or derivative victim for the amount of outpatient violence peer counseling-related expenses incurred by the victim or derivative victim, as specified. By expanding the authorization for the use of moneys in a continuously appropriated fund, this bill would make an appropriation.

Appropriation: yes.

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

SECTION 1. Section 13957.9 is added to the Government Code, to read:
13957.9. (a) In addition to the authorization provided in Section 13957 and subject to the limitations set forth in Section 13957.2, the board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, reimbursement of 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 violence peer counseling services provided by a service organization for victims of violent crime, and including family psychiatric, psychological, or mental health counseling 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:

(1) 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):

(A) A victim.

(B) 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.

(C) 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.

(2) 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):

(A) A derivative victim not eligible for reimbursement pursuant to paragraph (1), 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.

(B) 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.

(C) 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.

(3) The board may reimburse a victim or derivative victim for outpatient mental health counseling in excess of that authorized by paragraph (1) or (2) 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.

(4) 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:

(A) 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.

(B) 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.

(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.

(c) For the purposes of this section, the following definitions shall apply:

(1) "Service organization for victims of violent crime" means a nongovernmental organization that meets both of the following criteria:

(A) Its primary mission is to provide services to victims of violent crime.

(B) It provides programs or services to victims of violent crime and their families, and other programs, whether or not a similar program exists in an agency that provides additional services.

(2) "Violence peer counseling services" means counseling by a violence peer counselor for the purpose of rendering advice or assistance for victims of violent crime and their families.

(3) "Violence peer counselor" means a provider of formal or informal counseling services who is employed by a service organization for victims of violent crime, whether financially compensated or not, and who meets all of the following requirements:

(A) Possesses at least six months of full-time equivalent experience in providing peer support services acquired through employment, volunteer work, or as part of an internship experience.

(B) Completed a training program aimed at preparing an individual who was once a mental health services consumer to use his or her life experience with mental health treatment, combined with other strengths and skills, to promote the mental health recovery of other mental health services consumers who are in need of peer-based services relating to recovery as a victim of a violent crime.

(C) Possesses 40 hours of training on all of the following:

(i) The profound neurological, biological, psychological, and social effects of trauma and violence.

(ii) Peace-building and violence prevention strategies, including, but not limited to, conflict mediation and retaliation prevention related to gangs and gang-related violence.

(iii) Post-traumatic stress disorder and vicarious trauma, especially as related to gangs and gang-related violence.

(iv) Case management practices, including, but not limited to, ethics and victim compensation advocacy.

(D) When providing violence peer counseling services, is supervised by a marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, a licensed educational psychologist licensed pursuant to Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code, a clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, or a licensed professional clinical counselor licensed

pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code. For the purposes of this subparagraph, a licensed marriage and family therapist, licensed educational psychologist, licensed clinical social worker, or licensed professional clinical counselor shall be employed by the same service organization as the violence peer counselor.

(d) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

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AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1140

Introduced by Assembly Member Bonta

February 27, 2015

An act to amend Sections 13952, 13954, 13955, 13956, 13957, 13957.5, 13957.7, 13959, 13963, 13965, 13971, 13972, and 13973 of the Government Code, and to amend ~~Section~~ *Sections 2085.5 and 4904* of the Penal Code, relating to ~~crime victim compensation~~, *the California Victim Compensation and Government Claims Board*, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1140, as amended, Bonta. ~~Crime victim compensation~~. *California Victim Compensation and Government Claims Board*.

(1) Existing law generally provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and limits on the amount of compensation the board may award, and requires the application for compensation to be verified under penalty of perjury. Existing law authorizes the board to recognize an authorized representative of a victim or derivative victim, including an attorney, the legal guardian, conservator, immediate family member, parent, or relative caregiver, certified victim assistance advocate, county

social worker, or other persons, as specified, to represent the victim or derivative victim pursuant to rules adopted by the board.

This bill would expand the term “authorized representative” to mean any person designated by law or any person who has written authorization by the victim or derivative victim, excluding a medical or mental health provider who has provided services to the victim or derivative victim.

(2) Existing law requires the board to verify any information it deems pertinent to an application for compensation, and requires the victim and the applicant, if other than the victim, to cooperate with the staff of the board or a victim and witness assistance center in this task. Existing law authorizes the board to reject an application solely on the basis that the victim or applicant failed to cooperate as required.

This bill would instead require the applicant to cooperate in verifying the application and would specify the circumstances under which an applicant may be found to have failed to cooperate with the board.

(3) 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, 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.

This bill would instead require law enforcement and social service agencies to provide a complete copy of the law enforcement report and other supplemental reports and documents for the purpose of determining the eligibility of a claim.

(4) Existing law requires a victim or derivative victim seeking compensation to have sustained one or more specified physical or emotional injuries, or pecuniary losses, as a direct result of the crime. Existing law includes among those injuries emotional injury that occurred due to a violation of provisions prohibiting child abduction, as specified, if the deprivation of custody endured for 30 calendar days or more.

This bill would include among those injuries emotional injury that occurred due to a violation of provisions prohibiting publishing or disseminating via an electronic communication device personal identifying information or a digital image of another person, without consent of the other person, and for the purpose of causing that other person injury or harassment, by a 3rd party. The bill would also require, in the case of emotional injury caused by a child abduction, only that criminal charges were filed

The bill would also include among those injuries emotional injury to a minor victim that incurred as a direct result of the nonconsensual distribution of pictures or video of sexual conduct in which the minor appears. The bill would limit compensation for this type of injury to mental health counseling for the victim, and prohibit compensation to a derivative victim in this regard.

(5) Existing law authorizes the board to deny an application if it finds that 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, except as specified

This bill would instead authorize an application for compensation to be denied, in whole or in part, if the board finds that denial is appropriate based upon consideration of specified factors in determining the nature of the victim's or other applicant's involvement in the events leading to the crime, or the involvement of the person whose injury or death gives rise to the application, and specified factors that may be considered to mitigate or overcome that involvement.

(6) Existing law requires an application to be denied ~~of~~ *if* the victim failed to cooperate reasonably with law enforcement in apprehending and convicting the person who committed the crime.

This bill would prohibit a victim of domestic violence from being determined to have failed to cooperate based on his or her conduct with law enforcement at the scene of the crime, and would prohibit lack of cooperation from being found solely because a victim of sexual assault, domestic violence, or human trafficking delayed reporting the qualifying crime. The bill would also prohibit a claim based on a sexual assault from being denied solely because a police report was not made by the victim. The bill would require the board to adopt guidelines that allow it to consider and approve applications for assistance based on a sexual assault relying upon evidence other than a police report to establish that a sexual assault crime has occurred.

(7) Existing law prohibits any person who is convicted of a felony from being granted compensation until he or she has been discharged from probation or has been released from a correctional institution, and has been discharged from parole, if any. Existing law prohibits compensation from being granted to an applicant being held in a correctional institution. Existing law prioritizes the applications of victims who are not felons over those who are felons who have been discharged from probation or have been released from a correctional institution, and have been discharged from parole.

This bill would instead prohibit any person who is convicted of a violent felony, as specified, from being granted compensation until he or she is discharged from probation or released from a correctional institution, and discharged from parole, or until he or she is discharged from postrelease community supervision or mandatory supervision. This bill would also prohibit compensation from being granted to an applicant while he or she is required to be registered as a sex offender. This bill would remove provisions prioritizing the applications of victims who are not felons.

(8) Existing law authorizes derivative victims, including parents and siblings, of a victim of a crime that directly led to the death of the victim, to be reimbursed for the expense of their outpatient mental health counseling.

This bill would include grandparents and grandchildren among those derivative victims who are eligible to be reimbursed for their mental health counseling. Because an application for reimbursement is required to be submitted under penalty of perjury, this bill would expand the definition of a crime and thus impose a state-mandated local program.

(9) Existing law limits the reimbursement amount for outpatient mental health counseling of a victim of a crime of unlawful intercourse with a minor in which a person 21 years of age or older engaged in an act of unlawful sexual intercourse with a minor who was under 16 years of age to an amount not exceeding \$5,000. Existing law prohibits a derivative victim of that crime from being eligible to receive reimbursement for mental health counseling expenses.

This bill would remove provisions limiting the reimbursement of a victim of a crime of unlawful intercourse with a minor as described above and remove provisions prohibiting a derivative victim of that crime from being eligible to receive reimbursement for mental health counseling expenses.

(10) Existing law authorizes the board to grant reimbursement for pecuniary loss of the expense of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law if it determines it will best aid the person seeking compensation.

This bill would remove the provisions authorizing reimbursement for this type of care or treatment.

(11) Existing law authorizes the board to grant for pecuniary loss if it determines it will best aid the person seeking compensation reimbursement for the expense of installing or increasing residential

security, if it receives 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.

This bill would remove the provisions requiring the verification by law enforcement or a mental health treatment provider described above.

(12) Existing law also allows reimbursement for renovating or retrofitting a victim's residence or vehicle for a victim permanently disabled by the crime, as specified

The bill would also allow reimbursement for the purchase of a vehicle for a victim permanently disabled by the crime.

(13) Existing law authorizes the board to provide a cash payment to a victim for expenses incurred in relocating, ~~as specified~~ *specified* and requires a victim of sexual assault or domestic violence, who receives a relocation payment to, among other things, agree not to allow the offender on the premises at any time. *Existing law also authorizes the board to provide reimbursement to 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 inside a residence in an amount not to exceed \$1,000.*

This bill would authorize the board to require a victim to repay the relocation payment or reimbursement to the board if he or she violates those terms. The bill would also require the board to be named as the recipient of funds upon the expiration of a rental agreement if a security deposit was required for a relocation.

This bill would also authorize the board to reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs for a trauma scene waste practitioner to clean the scene of the crime if the crime occurred inside a vehicle.

(14) Existing law authorizes the board to pay attorney's fees for legal services rendered to an applicant, in an amount equal to 10% of the amount of the award, or \$500, whichever is less, for each victim and each derivative victim.

This bill would authorize the board to request that an attorney provide verification, and to contact an applicant to verify, that legal services were provided.

(15) Existing law requires the board to grant a hearing to an applicant who contests a staff recommendation to deny compensation. Existing law requires the board to schedule the hearing in as convenient a location

as possible if the applicant's presence is required. Existing law authorizes the board to grant no more than one request for reconsideration with respect to any one decision on an application for compensation.

This bill would also authorize the hearing to be conducted by telephone. The bill would also prohibit evidence submitted after the board has denied a request for reconsideration from being considered unless the board chooses to reconsider its decision on its own motion.

(16) Existing law provides that the board is 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. If a claim is filed within one year of the date of recovery, the board is required to pay 25% 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 and the remaining 75% is deposited in the Restitution Fund, a continuously appropriated fund.

This bill would instead require the board to pay 25% of the amount of the recovery that is subject to a lien on the judgment, award, or settlement, to the recipient responsible for recovery only if the recipient notified the board of the action prior to receiving any recovery with the remainder being deposited into the Restitution Fund. By increasing deposits to be made to a continuously appropriated fund, this bill would make an appropriation.

(17) Under existing ~~law~~ *law*, a person who has been overpaid pursuant to these provisions governing victim compensation is liable for that amount, except as specified

This bill would require that all actions to collect overpayments be commenced within 7 years of the date of the overpayment, except as specified. The bill would also authorize any recipient of an overpayment to contest the related staff recommendation.

(18) Existing law authorizes a private citizen, his or her surviving spouse, his or her surviving children, or a person dependent upon the citizen for his or her principal support to file a claim for indemnification as specified, if the private citizen incurred personal injury, death, or damage to his or her property in preventing the commission of a crime, in apprehending a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe.

Existing law defines “private citizen” for this and related provisions as a natural person except as specified

This bill would also authorize any person who is legally liable for the citizen’s pecuniary losses to file a claim for indemnification. This bill would revise the definition of “private citizen” to mean a person, except as specified

(19) Existing law provides that if a parolee or a prisoner owes a specified order of restitution, any moneys owing are collected from the parolee or prisoner, as specified, and transferred to the California Victim Compensation and Government Claims Board for direct payment to the victim. Existing law requires that the victim be paid within 60 days from the date the restitution revenues are received, however, the restitution payment need not be forwarded to that victim unless it is \$50 or more, or until 180 days from the date the first payment is received, whichever occurs sooner.

This bill would provide instead that the payment need not be forwarded to the victim until it is \$25 or more, or the victim requests payment of the lesser amount.

(20) Existing law requires, if the evidence shows that the crime with which the claimant was charged was either not committed at all, or, if committed, was not committed by the claimant, and that the claimant has sustained pecuniary injury through his or her erroneous conviction and imprisonment, the California Victim Compensation and Government Claims Board to report the facts of the case and its conclusions to the next Legislature with recommendation that an appropriation be made by the Legislature for the purpose of indemnifying the claimant for the pecuniary injury. Existing law further requires that the amount of the appropriation recommended be a sum equivalent to \$100 per day of incarceration served after the claimant’s conviction and that the appropriation not be treated as gross income to the recipient under the Revenue and Taxation Code.

This bill would increase the amount of the recommended appropriation to \$130 per day of incarceration served after the person was convicted.

~~(20)~~

(21) The bill would make other conforming and nonsubstantive changes.

~~(21)~~

(22) By expanding the ~~authorization~~ *authorizations* for use of moneys in the Restitution Fund, a continuously appropriated fund, this bill would make an appropriation.

~~(22)~~

(23) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 13952 of the Government Code is
2 amended to read:

3 13952. (a) An application for compensation shall be filed with
4 the board in the manner determined by the board.

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

20 (2) For purposes of this subdivision, “relative caregiver” means
21 a relative as defined in paragraph (2) of subdivision (h) of Section
22 6550 of the Family Code, who assumed primary responsibility for
23 the child while the child was in the relative’s care and control, and
24 who is not a biological or adoptive parent.

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

4 (2) The staff of the board shall determine whether an application
5 for compensation contains all of the information required by the
6 board. If the staff determines that an application does not contain
7 all of the required information, the staff shall communicate that
8 determination to the applicant with a brief statement of the
9 additional information required. The applicant, within 30 calendar
10 days of being notified that the application is incomplete, may either
11 supply the additional information or appeal the staff's
12 determination to the board, which shall review the application to
13 determine whether it is complete.

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

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

19 (A) Any person who has written authorization by the victim or
20 derivative victim. However, a medical or mental health provider,
21 or agent of the medical or mental health provider, who has provided
22 services to the victim or derivative victim shall not be allowed to
23 be an authorized representative.

24 (B) Any person designated by law including, but not limited to,
25 a legal guardian, conservator, or social worker.

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

30 SEC. 2. Section 13954 of the Government Code is amended
31 to read:

32 13954. (a) The board shall verify with hospitals, physicians,
33 law enforcement officials, or other interested parties involved, the
34 treatment of the victim or derivative victim, circumstances of the
35 crime, amounts paid or received by or for the victim or derivative
36 victim, and any other pertinent information deemed necessary by
37 the board. Verification information shall be returned to the board
38 within 10 business days after a request for verification has been
39 made by the board. Verification information shall be provided at
40 no cost to the applicant, the board, or victim centers. When

1 requesting verification information, the board shall certify that a
2 signed authorization by the applicant is retained in the applicant's
3 file and that this certification constitutes actual authorization for
4 the release of information, notwithstanding any other provision of
5 law. If requested by a physician or mental health provider, the
6 board shall provide a copy of the signed authorization for the
7 release of information.

8 (b) (1) The applicant shall cooperate with the staff of the board
9 or the victim center in the verification of the information contained
10 in the application. Failure to cooperate shall be reported to the
11 board, which, in its discretion, may reject the application solely
12 on this ground.

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

15 (A) The applicant has information, or there is information that
16 he or she may reasonably obtain, that is needed to process the
17 application or supplemental claim, and the applicant failed to
18 provide the information after being requested to do so by the board.
19 The ~~Board~~ board shall take the applicant's economic, psychosocial,
20 and postcrime traumatic circumstances into consideration, and
21 shall not unreasonably reject an application solely for failure to
22 provide information.

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

25 (C) The applicant refused to apply for other benefits potentially
26 available to him or her from other sources besides the board
27 including, but not limited to, worker's compensation, state
28 disability insurance, social security benefits, and unemployment
29 insurance.

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

32 (c) The board may contract with victim centers to provide
33 verification of applications processed by the centers pursuant to
34 conditions stated in subdivision (a). The board and its staff shall
35 cooperate with the Office of Criminal Justice Planning and victim
36 centers in conducting training sessions for center personnel and
37 shall cooperate in the development of standardized verificatio
38 procedures to be used by the victim centers in the state. The board
39 and its staff shall cooperate with victim centers in disseminating

1 standardized board policies and findings as they relate to the
2 centers.

3 (d) (1) Notwithstanding Section 827 of the Welfare and
4 Institutions Code or any other provision of law, every law
5 enforcement and social service agency in the state shall provide
6 to the board or to victim centers that have contracts with the board
7 pursuant to subdivision (c), upon request, a complete copy of the
8 law enforcement report and any supplemental reports involving
9 the crime or incident giving rise to a claim, a copy of a petition
10 filed in a juvenile court proceeding, reports of the probation office,
11 and any other document made available to the probation office,
12 or to the judge, referee, or other hearing office, for the specific
13 purpose of determining the eligibility of a claim filed pursuant to
14 this chapter.

15 (2) The board and victim centers receiving records pursuant to
16 this subdivision may not disclose a document that personally
17 identifies a minor to anyone other than the minor who is so
18 identified, his or her custodial parent or guardian, the attorneys
19 for those parties, and any other persons that may be designated by
20 court order. Any information received pursuant to this section shall
21 be received in confidence for the limited purpose for which it was
22 provided and may not be further disseminated. A violation of this
23 subdivision is a misdemeanor punishable by a fine not to exceed
24 five hundred dollars (\$500).

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

29 (e) Notwithstanding any other provision of law, every state
30 agency, upon receipt of a copy of a release signed in accordance
31 with the Information Practices Act of 1977 (Chapter 1
32 commencing with Section 1798) of Title 1.8 of Part 4 of Division
33 3 of the Civil Code) by the applicant or other authorized
34 representative, shall provide to the board or victim center the
35 information necessary to complete the verification of an application
36 filed pursuant to this chapter.

37 (f) The Department of Justice shall furnish, upon application of
38 the board, all information necessary to verify the eligibility of any
39 applicant for benefits pursuant to subdivision (c) of Section 13956,
40 to recover any restitution fine or order obligations that are owed

1 to the Restitution Fund or to any victim of crime, or to evaluate
2 the status of any criminal disposition.

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

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

9 (i) Any county social worker acting as the applicant for a child
10 victim or elder abuse victim shall not be required to provide
11 personal identification, including, but not limited to, the applicant's
12 date of birth or social security number. County social workers
13 acting in this capacity shall not be required to sign a promise of
14 repayment to the board.

15 SEC. 3. Section 13955 of the Government Code is amended
16 to read:

17 13955. Except as provided in Section 13956, a person shall be
18 eligible for compensation when all of the following requirements
19 are met:

20 (a) The person for whom compensation is being sought is any
21 of the following:

22 (1) A victim.

23 (2) A derivative victim.

24 (3) (A) A person who is entitled to reimbursement for funeral,
25 burial, or crime scene cleanup expenses pursuant to paragraph (9)
26 or (10) of subdivision (a) of Section 13957.

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

29 (b) Either of the following conditions is met:

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

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

36 (A) A resident of California.

37 (B) A member of the military stationed in California.

38 (C) A family member living with a member of the military
39 stationed in California.

1 (c) If compensation is being sought for a derivative victim, the
2 derivative victim is a resident of California, or any other state, who
3 is any of the following:

4 (1) At the time of the crime was the parent, grandparent, sibling,
5 spouse, child, or grandchild of the victim.

6 (2) At the time of the crime was living in the household of the
7 victim.

8 (3) At the time of the crime was a person who had previously
9 lived in the household of the victim for a period of not less than
10 two years in a relationship substantially similar to a relationship
11 listed in paragraph (1).

12 (4) Is another family member of the victim, including, but not
13 limited to, the victim's fiancé or fiancée, and who witnessed the
14 crime.

15 (5) Is the primary caretaker of a minor victim, but was not the
16 primary caretaker at the time of the crime.

17 (d) The application is timely pursuant to Section 13953.

18 (e) (1) Except as provided in paragraph (2), the injury or death
19 was a direct result of a crime.

20 (2) Notwithstanding paragraph (1), no act involving the
21 operation of a motor vehicle, aircraft, or water vehicle that results
22 in injury or death constitutes a crime for the purposes of this
23 chapter, except when the injury or death from such an act was any
24 of the following:

25 (A) Intentionally inflicted through the use of a motor vehicle,
26 aircraft, or water vehicle.

27 (B) Caused by a driver who fails to stop at the scene of an
28 accident in violation of Section 20001 of the Vehicle Code.

29 (C) Caused by a person who is under the influence of any
30 alcoholic beverage or drug.

31 (D) Caused by a driver of a motor vehicle in the immediate act
32 of fleeing the scene of a crime in which he or she knowingly and
33 willingly participated.

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

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

- 1 (f) As a direct result of the crime, the victim or derivative victim
- 2 sustained one or more of the following:
- 3 (1) Physical injury. The board may presume a child who has
- 4 been the witness of a crime of domestic violence has sustained
- 5 physical injury. A child who resides in a home where a crime or
- 6 crimes of domestic violence have occurred may be presumed by
- 7 the board to have sustained physical injury, regardless of whether
- 8 the child has witnessed the crime.
- 9 (2) Emotional injury and a threat of physical injury.
- 10 (3) Emotional injury, where the crime was a violation of any of
- 11 the following provisions:
- 12 (A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288,
- 13 288a, 288.5, 289, or 653.2, or subdivision (b) or (c) of Section
- 14 311.4, of the Penal Code.
- 15 (B) Section 270 of the Penal Code, where the emotional injury
- 16 was a result of conduct other than a failure to pay child support,
- 17 and criminal charges were filed
- 18 (C) Section 261.5 of the Penal Code, and criminal charges were
- 19 filed
- 20 (D) Section 278 or 278.5 of the Penal Code, and criminal
- 21 charges were filed. For purposes of this paragraph, the child, and
- 22 not the nonoffending parent or other caretaker, shall be deemed
- 23 the victim.
- 24 (4) Injury to, or the death of, a guide, signal, or service dog, as
- 25 defined in Section 54.1 of the Civil Code, as a result of a violation
- 26 of Section 600.2 or 600.5 of the Penal Code.
- 27 (5) Emotional injury to a victim who is a minor incurred as a
- 28 direct result of the nonconsensual distribution of pictures or video
- 29 of sexual conduct in which the minor appears.
- 30 (g) The injury or death has resulted or may result in pecuniary
- 31 loss within the scope of compensation pursuant to Sections 13957
- 32 to 13957.7, inclusive.
- 33 SEC. 4. Section 13956 of the Government Code is amended
- 34 to read:
- 35 13956. Notwithstanding Section 13955, a person shall not be
- 36 eligible for compensation under the following conditions:
- 37 (a) An application may be denied, in whole or in part, if the
- 38 board finds that denial is appropriate because of the nature of the
- 39 victim’s or other applicant’s involvement in the events leading to

1 the crime, or the involvement of the person whose injury or death
2 gives rise to the application.

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

6 (A) The victim or derivative victim initiated the qualifying
7 crime, or provoked or aggravated the suspect into initiating the
8 qualifying crime.

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

11 (C) The victim or derivative victim was committing a crime
12 that could be charged as a felony and reasonably lead to him or
13 her being victimized. However, committing a crime shall not be
14 considered involvement if the victim's injury or death occurred as
15 a direct result of a crime committed in violation of Section 261,
16 262, or 273.5 of, or for a crime of unlawful sexual intercourse with
17 a minor violation of subdivision (d) of Section 261.5 of, the Penal
18 Code.

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

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

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

28 (C) The board shall consider the victim's age, physical
29 condition, and psychological state, as well as any compelling health
30 and safety concerns, in determining whether the application should
31 be denied pursuant to this section. The application of a derivative
32 victim of domestic violence under 18 years of age or derivative
33 victim of trafficking under 18 years of age shall not be denied on
34 the basis of the denial of the victim's application under this
35 subdivision.

36 (b) (1) An application shall be denied if the board finds that
37 the victim or, if compensation is sought by, or on behalf of, a
38 derivative victim, either the victim or derivative victim failed to
39 cooperate reasonably with a law enforcement agency in the
40 apprehension and conviction of a criminal committing the crime.

1 In determining whether cooperation has been reasonable, the board
2 shall consider the victim's or derivative victim's age, physical
3 condition, and psychological state, cultural or linguistic barriers,
4 any compelling health and safety concerns, including, but not
5 limited to, a reasonable fear of retaliation or harm that would
6 jeopardize the well-being of the victim or the victim's family or
7 the derivative victim or the derivative victim's family, and giving
8 due consideration to the degree of cooperation of which the victim
9 or derivative victim is capable in light of the presence of any of
10 these factors. A victim of domestic violence shall not be determined
11 to have failed to cooperate based on his or her conduct with law
12 enforcement at the scene of the crime. Lack of cooperation shall
13 also not be found solely because a victim of sexual assault,
14 domestic violence, or human trafficking delayed reporting the
15 qualifying crime.

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

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

37 (4) An application for a claim based on human trafficking as
38 defined in Section 236.1 of the Penal Code shall not be denied
39 solely because no police report was made by the victim. The board
40 shall adopt guidelines that allow the board to consider and approve

1 applications for assistance based on human trafficking relying
2 upon evidence other than a police report to establish that a human
3 trafficking crime as defined in Section 236.1 of the Penal Code
4 has occurred. That evidence may include any reliable corroborating
5 information approved by the board, including, but not limited to,
6 the following:

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

9 (B) A human trafficking caseworker as identified in Section
10 1038.2 of the Evidence Code, has attested by affidavit that the
11 individual was a victim of human trafficking

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (iii) A contractor or agent of a private military or private security
9 company.

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

11 (F) For purposes of this subdivision, “sexual assault” means an
12 offense included in Section 261, 262, 264.1, 286, 288a, or 289 of
13 the Penal Code, as of the date the act that added this paragraph
14 was enacted.

15 (c) (1) Notwithstanding Section 13955, no person who is
16 convicted of a violent felony listed in subdivision (c) of Section
17 667.5 of the Penal Code may be granted compensation until that
18 person has been discharged from probation or has been released
19 from a correctional institution and has been discharged from parole,
20 or has been discharged from postrelease community supervision
21 or mandatory supervision, if any, for that violent crime. In no case
22 shall compensation be granted to an applicant pursuant to this
23 chapter during any period of time the applicant is held in a
24 correctional institution, or while an applicant is required to register
25 as a sex offender pursuant to Section 290 of the Penal Code.

26 (2) A person who has been convicted of a violent felony listed
27 in subdivision (c) of Section 667.5 of the Penal Code may apply
28 for compensation pursuant to this chapter at any time, but the award
29 of that compensation may not be considered until the applicant
30 meets the requirements for compensation set forth in paragraph
31 (1).

32 SEC. 5. Section 13957 of the Government Code is amended
33 to read:

34 13957. (a) The board may grant for pecuniary loss, when the
35 board determines it will best aid the person seeking compensation,
36 as follows:

37 (1) Subject to the limitations set forth in Section 13957.2,
38 reimburse the amount of medical or medical-related expenses
39 incurred by the victim for services that were provided by a licensed
40 medical provider, including, but not limited to, eyeglasses, hearing

1 aids, dentures, or any prosthetic device taken, lost, or destroyed
2 during the commission of the crime, or the use of which became
3 necessary as a direct result of the crime.

4 (2) Subject to the limitations set forth in Section 13957.2,
5 reimburse the amount of outpatient psychiatric, psychological, or
6 other mental health counseling-related expenses incurred by the
7 victim or derivative victim, including peer counseling services
8 provided by a rape crisis center as defined by Section 13837 of
9 the Penal Code, and including family psychiatric, psychological,
10 or mental health counseling for the successful treatment of the
11 victim provided to family members of the victim in the presence
12 of the victim, whether or not the family member relationship
13 existed at the time of the crime, that became necessary as a direct
14 result of the crime, subject to the following conditions:

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

18 (i) A victim.

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

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

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

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

36 (ii) A minor who suffers emotional injury as a direct result of
37 witnessing a violent crime and who is not eligible for
38 reimbursement of the costs of outpatient mental health counseling
39 under any other provision of this chapter. To be eligible for

1 reimbursement under this clause, the minor must have been in
2 close proximity to the victim when he or she witnessed the crime.

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

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

12 (i) A person who would have been authorized to provide those
13 services pursuant to former Article 1 (commencing with Section
14 13959) as it read on January 1, 2002.

15 (ii) A person who is licensed in California to provide those
16 services, or who is properly supervised by a person who is licensed
17 in California to provide those services, subject to the board's
18 approval and subject to the limitations and restrictions the board
19 may impose.

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

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

33 (5) Reimburse the expense of installing or increasing residential
34 security, not to exceed one thousand dollars (\$1,000). Installing
35 or increasing residential security may include, but need not be
36 limited to, both of the following:

37 (A) Home security device or system.

38 (B) Replacing or increasing the number of locks.

39 (6) Reimburse the expense of renovating or retrofitting a
40 victim's residence, or the expense of modifying or purchasing a

1 vehicle, to make the residence or the vehicle accessible or
2 operational by a victim upon verification that the expense is
3 medically necessary for a victim who is permanently disabled as
4 a direct result of the crime, whether the disability is partial or total.

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

11 (B) The cash payment or reimbursement made under this
12 paragraph shall only be awarded to one claimant per crime giving
13 rise to the relocation. The board may authorize more than one
14 relocation per crime if necessary for the personal safety or
15 emotional well-being of the claimant. However, the total cash
16 payment or reimbursement for all relocations due to the same crime
17 shall not exceed two thousand dollars (\$2,000). For purposes of
18 this paragraph a claimant is the crime victim, or, if the victim is
19 deceased, a person who resided with the deceased at the time of
20 the crime.

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

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

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

28 (D) When a relocation payment or reimbursement is provided
29 to a victim of sexual assault or domestic violence and the identity
30 of the offender is known to the victim, the victim shall agree not
31 to inform the offender of the location of the victim's new residence
32 and not to allow the offender on the premises at any time, or shall
33 agree to seek a restraining order against the offender. A victim
34 may be required to repay the relocation payment or reimbursement
35 to the board if he or she violates the terms set forth in this
36 paragraph.

37 (E) Notwithstanding subparagraphs (A) and (B), the board may
38 increase the cash payment or reimbursement for expenses incurred
39 in relocating to an amount greater than two thousand dollars

1 (\$2,000), if the board finds this amount is appropriate due to the
2 unusual, dire, or exceptional circumstances of a particular claim.

3 (F) If a security deposit is required for relocation, the board
4 shall be named as the recipient and receive the funds upon
5 expiration of the victim’s rental agreement.

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

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

13 (B) The funeral and burial expenses incurred as a direct result
14 of the crime, not to exceed seven thousand five hundred dollars
15 (\$7,500).

16 (9) When the crime occurs in a residence or inside a vehicle,
17 the board may reimburse any individual who voluntarily, and
18 without anticipation of personal gain, pays or assumes the
19 obligation to pay the reasonable costs to clean the scene of the
20 crime in an amount not to exceed one thousand dollars (\$1,000).
21 Services reimbursed pursuant to this subdivision shall be performed
22 by persons registered with the State Department of Public Health
23 as trauma scene waste practitioners in accordance with Chapter
24 9.5 (commencing with Section 118321) of Part 14 of Division 104
25 of the Health and Safety Code.

26 (10) When the crime is a violation of Section 600.2 or 600.5 of
27 the Penal Code, the board may reimburse the expense of veterinary
28 services, replacement costs, or other reasonable expenses, as
29 ordered by the court pursuant to Section 600.2 or 600.5 of the
30 Penal Code, in an amount not to exceed ten thousand dollars
31 (\$10,000).

32 (11) An award of compensation pursuant to paragraph (5) of
33 subdivision (f) of Section 13955 shall be limited to compensation
34 to provide mental health counseling and shall not limit the
35 eligibility of a victim for an award that he or she may be otherwise
36 entitled to receive under this part. A derivative victim shall not be
37 eligible for compensation under this provision.

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

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

3 SEC. 6. Section 13957.5 of the Government Code is amended
4 to read:

5 13957.5. (a) In authorizing compensation for loss of income
6 and support pursuant to paragraph (3) of subdivision (a) of Section
7 13957, the board may take any of the following actions:

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

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

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

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

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

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

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

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

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

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

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

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

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

7 SEC. 7. Section 13957.7 of the Government Code is amended
8 to read:

9 13957.7. (a) No reimbursement may be made for any expense
10 that is submitted more than three years after it is incurred by the
11 victim or derivative victim. However, reimbursement may be made
12 for an expense submitted more than three years after the date it is
13 incurred if the victim or derivative victim has affirmed the debt
14 and is liable for the debt at the time the expense is submitted for
15 reimbursement, or has paid the expense as a direct result of a crime
16 for which a timely application has been filed or has paid the
17 expense as a direct result of a crime for which an application has
18 been filed and approved.

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

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

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

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

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

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

10 (g) The board shall pay attorney's fees representing the
11 reasonable value of legal services rendered to the applicant, in an
12 amount equal to 10 percent of the amount of the award, or fi e
13 hundred dollars (\$500), whichever is less, for each victim and each
14 derivative victim. The board may request that an attorney provide
15 verification of legal services provided to an applicant and the board
16 may contact an applicant to verify that legal services were provided.
17 An attorney receiving fees from another source may waive the
18 right to receive fees under this subdivision. Payments under this
19 subdivision shall be in addition to any amount authorized or
20 ordered under subdivision (b) of Section 13960. An attorney may
21 not charge, demand, receive, or collect any amount for services
22 rendered in connection with any proceedings under this chapter
23 except as awarded under this chapter.

24 (h) A private nonprofit agency shall be reimbursed for its
25 services at the level of the normal and customary fee charged by
26 the private nonprofit agency to clients with adequate means of
27 payment for its services, except that this reimbursement may not
28 exceed the maximum reimbursement rates set by the board and
29 may be made only to the extent that the victim otherwise qualifie
30 for compensation under this chapter and that other reimbursement
31 or direct subsidies are not available to serve the victim.

32 SEC. 8. Section 13959 of the Government Code is amended
33 to read:

34 13959. (a) The board shall grant a hearing to an applicant who
35 contests a staff recommendation to deny compensation in whole
36 or in part.

37 (b) The board shall notify the applicant not less than 10 days
38 prior to the date of the hearing. Notwithstanding Section 11123,
39 if the application that the board is considering involves either a
40 crime against a minor, a crime of sexual assault, or a crime of

1 domestic violence, the board may exclude from the hearing all
2 persons other than board members and members of its staff, the
3 applicant for benefits, a minor applicant's parents or guardians,
4 the applicant's representative, witnesses, and other persons of the
5 applicant's choice to provide assistance to the applicant during the
6 hearing. However, the board shall not exclude persons from the
7 hearing if the applicant or applicant's representative requests that
8 the hearing be open to the public.

9 (c) At the hearing, the person seeking compensation shall have
10 the burden of establishing, by a preponderance of the evidence,
11 the elements for eligibility under Section 13955.

12 (d) Except as otherwise provided by law, in making
13 determinations of eligibility for compensation and in deciding
14 upon the amount of compensation, the board shall apply the law
15 in effect as of the date an application was submitted.

16 (e) The hearing shall be informal and need not be conducted
17 according to the technical rules relating to evidence and witnesses.
18 The board may rely on any relevant evidence if it is the sort of
19 evidence on which responsible persons are accustomed to rely in
20 the conduct of serious affairs, regardless of the existence of a
21 common law or statutory rule that might make improper the
22 admission of the evidence over objection in a civil action. The
23 board may rely on written reports prepared for the board, or other
24 information received, from public agencies responsible for
25 investigating the crime. If the applicant or the applicant's
26 representative chooses not to appear at the hearing, the board may
27 act solely upon the application for compensation, the staff's report,
28 and other evidence that appears in the record.

29 (f) Hearings shall be held in various locations with the frequency
30 necessary to provide for the speedy adjudication of the applications.
31 If the applicant's presence is required at the hearing, the board
32 shall schedule the applicant's hearing in as convenient a location
33 as possible or conduct the hearing by telephone.

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

36 (h) The decisions of the board shall be in writing. Copies of the
37 decisions shall be delivered to the applicant or to his or her
38 representative personally or sent to him or her by mail.

39 (i) The board may order a reconsideration of all or part of a
40 decision on written request of the applicant. The board shall not

1 grant more than one request for reconsideration with respect to
2 any one decision on an application for compensation. The board
3 shall not consider any request for reconsideration filed with the
4 board more than 30 calendar days after the personal delivery or
5 60 calendar days after the mailing of the original decision.

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

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

11 SEC. 9. Section 13963 of the Government Code is amended
12 to read:

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

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

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

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

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

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

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

1 SEC. 10. Section 13965 of the Government Code is amended
2 to read:

3 13965. (a) Any recipient of an overpayment pursuant to this
4 chapter is liable to repay the board that amount unless both of the
5 following facts exist:

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

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

11 (b) All actions to collect overpayments shall commence within
12 seven years from the date of the overpayment. However, an action
13 to collect an overpayment due to fraud, misrepresentation, or
14 willful nondisclosure by the recipient may be commenced at any
15 time.

16 (c) Any recipient of an overpayment is authorized to contest
17 the staff recommendation of an overpayment pursuant to the
18 hearing procedures in Section 13959. If a final determination is
19 made by the board that an overpayment exists, the board may
20 collect the overpayment in any manner prescribed by law.

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

25 SEC. 11. Section 13971 of the Government Code is amended
26 to read:

27 13971. As used in this article, “private citizen” means any
28 person other than a peace officer, fireman, lifeguard, or person
29 whose employment includes the duty to protect the public safety
30 acting within the course and scope of such employment.

31 SEC. 12. Section 13972 of the Government Code is amended
32 to read:

33 13972. (a) If a private citizen incurs personal injury or death
34 or damage to his or her property in preventing the commission of
35 a crime against the person or property of another, in apprehending
36 a criminal, or in materially assisting a peace officer in prevention
37 of a crime or apprehension of a criminal, or rescuing a person in
38 immediate danger of injury or death as a result of fire, drowning,
39 or other catastrophe, the private citizen, his or her surviving spouse,
40 his or her surviving children, a person dependent upon the citizen

1 for his or her principal support, any person legally liable for the
2 citizen's pecuniary losses, or a public safety or law enforcement
3 agency acting on behalf of any of the above may file a claim with
4 the California Victim Compensation and Government Claims
5 Board for indemnification to the extent that the claimant is not
6 compensated from any other source for the injury, death, or
7 damage. The claim shall generally show all of the following:

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

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

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

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

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

23 SEC. 13. Section 13973 of the Government Code is amended
24 to read:

25 13973. (a) Upon presentation of a claim pursuant to this
26 chapter, the California Victim Compensation and Government
27 Claims Board shall fix a time and place for the hearing of the claim,
28 and shall mail notices of the hearing to interested persons or
29 agencies. The board shall receive recommendations from public
30 safety or law enforcement agencies, and evidence showing all of
31 the following:

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

37 (2) That the actions of the private citizen substantially and
38 materially contributed to the apprehension of a criminal, the
39 prevention of a crime, or the rescuing of a person in immediate

1 danger of injury or death as a result of fire, drowning, or other
2 catastrophe.

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

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

7 (5) Any other evidence that the board may require.

8 (b) If the board determines, on the basis of a preponderance of
9 the evidence, that the state should indemnify the claimant for the
10 injury, death, or damage sustained, it shall approve the claim for
11 payment. In no event shall a claim be approved by the board under
12 this article in excess of ten thousand dollars (\$10,000).

13 (c) In addition to any award made under this chapter, the board
14 may award, as attorney’s fees, an amount representing the
15 reasonable value of legal services rendered a claimant, but in no
16 event to exceed 10 percent of the amount of the award. No attorney
17 shall charge, demand, receive, or collect for services rendered in
18 connection with any proceedings under this chapter any amount
19 other than that awarded as attorney’s fees under this section. Claims
20 approved under this chapter shall be paid from a separate
21 appropriation made to the California Victim Compensation and
22 Government Claims Board in the Budget Act and as the claims
23 are approved by the board.

24 SEC. 14. Section 2085.5 of the Penal Code is amended to read:

25 2085.5. (a) In any case in which a prisoner owes a restitution
26 fine imposed pursuant to subdivision (a) of Section 13967 of the
27 Government Code, as operative prior to September 29, 1994,
28 subdivision (b) of Section 730.6 of the Welfare and Institutions
29 Code, or subdivision (b) of Section 1202.4, the Secretary of the
30 Department of Corrections and Rehabilitation shall deduct a
31 minimum of 20 percent or the balance owing on the fine amount,
32 whichever is less, up to a maximum of 50 percent from the wages
33 and trust account deposits of a prisoner, unless prohibited by
34 federal law, and shall transfer that amount to the California Victim
35 Compensation and Government Claims Board for deposit in the
36 Restitution Fund in the State Treasury. The amount deducted shall
37 be credited against the amount owing on the fine. The sentencing
38 court shall be provided a record of the payments.

39 (b) (1) When a prisoner is punished by imprisonment in a
40 county jail pursuant to subdivision (h) of Section 1170, in any case

1 in which a prisoner owes a restitution fine imposed pursuant to
2 subdivision (a) of Section 13967 of the Government Code, as
3 operative prior to September 29, 1994, subdivision (b) of Section
4 730.6 of the Welfare and Institutions Code, or subdivision (b) of
5 Section 1202.4, the agency designated by the board of supervisors
6 in the county where the prisoner is incarcerated is authorized to
7 deduct a minimum of 20 percent or the balance owing on the fin
8 amount, whichever is less, up to a maximum of 50 percent from
9 the county jail equivalent of wages and trust account deposits of
10 a prisoner, unless prohibited by federal law, and shall transfer that
11 amount to the California Victim Compensation and Government
12 Claims Board for deposit in the Restitution Fund in the State
13 Treasury. The amount deducted shall be credited against the
14 amount owing on the fine. The sentencing court shall be provided
15 a record of the payments.

16 (2) If the board of supervisors designates the county sheriff as
17 the collecting agency, the board of supervisors shall first obtain
18 the concurrence of the county sheriff.

19 (c) In any case in which a prisoner owes a restitution order
20 imposed pursuant to subdivision (c) of Section 13967 of the
21 Government Code, as operative prior to September 29, 1994,
22 subdivision (h) of Section 730.6 of the Welfare and Institutions
23 Code, or subdivision (f) of Section 1202.4, the Secretary of the
24 Department of Corrections and Rehabilitation shall deduct a
25 minimum of 20 percent or the balance owing on the order amount,
26 whichever is less, up to a maximum of 50 percent from the wages
27 and trust account deposits of a prisoner, unless prohibited by
28 federal law. The secretary shall transfer that amount to the
29 California Victim Compensation and Government Claims Board
30 for direct payment to the victim, or payment shall be made to the
31 Restitution Fund to the extent that the victim has received
32 assistance pursuant to that program. The sentencing court shall be
33 provided a record of the payments made to victims and of the
34 payments deposited to the Restitution Fund pursuant to this
35 subdivision.

36 (d) When a prisoner is punished by imprisonment in a county
37 jail pursuant to subdivision (h) of Section 1170, in any case in
38 which a prisoner owes a restitution order imposed pursuant to
39 subdivision (c) of Section 13967 of the Government Code, as
40 operative prior to September 29, 1994, subdivision (h) of Section

1 730.6 of the Welfare and Institutions Code, or subdivision (b) of
2 Section 1202.4, the agency designated by the board of supervisors
3 in the county where the prisoner is incarcerated is authorized to
4 deduct a minimum of 20 percent or the balance owing on the order
5 amount, whichever is less, up to a maximum of 50 percent from
6 the county jail equivalent of wages and trust account deposits of
7 a prisoner, unless prohibited by federal law. The agency shall
8 transfer that amount to the California Victim Compensation and
9 Government Claims Board for direct payment to the victim, or
10 payment shall be made to the Restitution Fund to the extent that
11 the victim has received assistance pursuant to that program, or
12 may pay the victim directly. The sentencing court shall be provided
13 a record of the payments made to the victims and of the payments
14 deposited to the Restitution Fund pursuant to this subdivision.

15 (e) The secretary shall deduct and retain from the wages and
16 trust account deposits of a prisoner, unless prohibited by federal
17 law, an administrative fee that totals 10 percent of any amount
18 transferred to the California Victim Compensation and Government
19 Claims Board pursuant to subdivision (a) or (c). The secretary
20 shall deduct and retain from any prisoner settlement or trial award,
21 an administrative fee that totals 5 percent of any amount paid from
22 the settlement or award to satisfy an outstanding restitution order
23 or fine pursuant to subdivision (n), unless prohibited by federal
24 law. The secretary shall deposit the administrative fee moneys in
25 a special deposit account for reimbursing administrative and
26 support costs of the restitution program of the Department of
27 Corrections and Rehabilitation. The secretary, at his or her
28 discretion, may retain any excess funds in the special deposit
29 account for future reimbursement of the department's
30 administrative and support costs for the restitution program or may
31 transfer all or part of the excess funds for deposit in the Restitution
32 Fund.

33 (f) When a prisoner is punished by imprisonment in a county
34 jail pursuant to subdivision (h) of Section 1170, the agency
35 designated by the board of supervisors in the county where the
36 prisoner is incarcerated is authorized to deduct and retain from the
37 county jail equivalent of wages and trust account deposits of a
38 prisoner, unless prohibited by federal law, an administrative fee
39 that totals 10 percent of any amount transferred to the California
40 Victim Compensation and Government Claims Board pursuant to

1 subdivision (b) or (d). The agency is authorized to deduct and
2 retain from a prisoner settlement or trial award an administrative
3 fee that totals 5 percent of any amount paid from the settlement
4 or award to satisfy an outstanding restitution order or fine pursuant
5 to subdivision (n), unless prohibited by federal law. Upon release
6 from custody pursuant to subdivision (h) of Section 1170, the
7 agency is authorized to charge a fee to cover the actual
8 administrative cost of collection, not to exceed 10 percent of the
9 total amount collected. The agency shall deposit the administrative
10 fee moneys in a special deposit account for reimbursing
11 administrative and support costs of the restitution program of the
12 agency. The agency is authorized to retain any excess funds in the
13 special deposit account for future reimbursement of the agency's
14 administrative and support costs for the restitution program or may
15 transfer all or part of the excess funds for deposit in the Restitution
16 Fund.

17 (g) In any case in which a parolee owes a restitution fin
18 imposed pursuant to subdivision (a) of Section 13967 of the
19 Government Code, as operative prior to September 29, 1994,
20 subdivision (b) of Section 730.6 of the Welfare and Institutions
21 Code, or subdivision (b) of Section 1202.4, the secretary, or, when
22 a prisoner is punished by imprisonment in a county jail pursuant
23 to subdivision (h) of Section 1170, the agency designated by the
24 board of supervisors in the county where the prisoner is
25 incarcerated, may collect from the parolee or, pursuant to Section
26 2085.6, from a person previously imprisoned in county jail any
27 moneys owing on the restitution fine amount, unless prohibited
28 by federal law. The secretary or the agency shall transfer that
29 amount to the California Victim Compensation and Government
30 Claims Board for deposit in the Restitution Fund in the State
31 Treasury. The amount deducted shall be credited against the
32 amount owing on the fine. The sentencing court shall be provided
33 a record of the payments.

34 (h) In any case in which a parolee owes a direct order of
35 restitution, imposed pursuant to subdivision (c) of Section 13967
36 of the Government Code, as operative prior to September 29, 1994,
37 subdivision (h) of Section 730.6 of the Welfare and Institutions
38 Code, or paragraph (3) of subdivision (a) of Section 1202.4, the
39 secretary, or, when a prisoner is punished by imprisonment in a
40 county jail pursuant to subdivision (h) of Section 1170, the agency

1 designated by the board of supervisors in the county where the
2 prisoner is incarcerated or a local collection program, may collect
3 from the parolee or, pursuant to Section 2085.6, from a person
4 previously imprisoned in county jail any moneys owing, unless
5 prohibited by federal law. The secretary or the agency shall transfer
6 that amount to the California Victim Compensation and
7 Government Claims Board for direct payment to the victim, or
8 payment shall be made to the Restitution Fund to the extent that
9 the victim has received assistance pursuant to that program, or the
10 agency may pay the victim directly. The sentencing court shall be
11 provided a record of the payments made by the offender pursuant
12 to this subdivision.

13 (i) The secretary, or, when a prisoner is punished by
14 imprisonment in a county jail pursuant to subdivision (h) of Section
15 1170, the agency designated by the board of supervisors in the
16 county where the prisoner is incarcerated, may deduct and retain
17 from moneys collected from parolees or persons previously
18 imprisoned in county jail an administrative fee that totals 10 percent
19 of any amount transferred to the California Victim Compensation
20 and Government Claims Board pursuant to subdivision (g) or (h),
21 unless prohibited by federal law. The secretary shall deduct and
22 retain from any settlement or trial award of a parolee an
23 administrative fee that totals 5 percent of an amount paid from the
24 settlement or award to satisfy an outstanding restitution order or
25 fine pursuant to subdivision (n), unless prohibited by federal law.
26 The agency is authorized to deduct and retain from any settlement
27 or trial award of a person previously imprisoned in county jail an
28 administrative fee that totals 5 percent of any amount paid from
29 the settlement or award to satisfy an outstanding restitution order
30 or fine pursuant to subdivision (n). The secretary or the agency
31 shall deposit the administrative fee moneys in a special deposit
32 account for reimbursing administrative and support costs of the
33 restitution program of the Department of Corrections and
34 Rehabilitation or the agency, as applicable. The secretary, at his
35 or her discretion, or the agency may retain any excess funds in the
36 special deposit account for future reimbursement of the
37 department's or agency's administrative and support costs for the
38 restitution program or may transfer all or part of the excess funds
39 for deposit in the Restitution Fund.

1 (j) When a prisoner has both a restitution fine and a restitio
2 order from the sentencing court, the Department of Corrections
3 and Rehabilitation shall collect the restitution order first pursuant
4 to subdivision (c).

5 (k) When a prisoner is punished by imprisonment in a county
6 jail pursuant to subdivision (h) of Section 1170 and that prisoner
7 has both a restitution fine and a restitution order from the
8 sentencing court, if the agency designated by the board of
9 supervisors in the county where the prisoner is incarcerated collects
10 the fine and order, the agency shall collect the restitution order
11 first pursuant to subd vision (d).

12 (l) When a parolee has both a restitution fine and a restitution
13 order from the sentencing court, the Department of Corrections
14 and Rehabilitation, or, when the prisoner is punished by
15 imprisonment in a county jail pursuant to subdivision (h) of Section
16 1170, the agency designated by the board of supervisors in the
17 county where the prisoner is incarcerated, may collect the
18 restitution order first, pursuant to subd vision (h).

19 (m) If an inmate is housed at an institution that requires food
20 to be purchased from the institution canteen for unsupervised
21 overnight visits, and if the money for the purchase of this food is
22 received from funds other than the inmate's wages, that money
23 shall be exempt from restitution deductions. This exemption shall
24 apply to the actual amount spent on food for the visit up to a
25 maximum of fifty dollars (\$50) for visits that include the inmate
26 and one visitor, seventy dollars (\$70) for visits that include the
27 inmate and two or three visitors, and eighty dollars (\$80) for visits
28 that include the inmate and four or more visitors.

29 (n) Compensatory or punitive damages awarded by trial or
30 settlement to any inmate, parolee, person placed on postrelease
31 community supervision pursuant to Section 3451, or defendant on
32 mandatory supervision imposed pursuant to subparagraph (B) of
33 paragraph (5) of subdivision (h) of Section 1170, in connection
34 with a civil action brought against a federal, state, or local jail,
35 prison, or correctional facility, or any official or agent thereof,
36 shall be paid directly, after payment of reasonable attorney's fees
37 and litigation costs approved by the court, to satisfy any
38 outstanding restitution orders or restitution fines against that
39 person. The balance of the award shall be forwarded to the payee
40 after full payment of all outstanding restitution orders and

1 restitution fines, subject to subdivisions (e) and (i). The Department
 2 of Corrections and Rehabilitation shall make all reasonable efforts
 3 to notify the victims of the crime for which that person was
 4 convicted concerning the pending payment of any compensatory
 5 or punitive damages. For any prisoner punished by imprisonment
 6 in a county jail pursuant to subdivision (h) of Section 1170, the
 7 agency is authorized to make all reasonable efforts to notify the
 8 victims of the crime for which that person was convicted
 9 concerning the pending payment of any compensatory or punitive
 10 damages.

11 (o) (1) Amounts transferred to the California Victim
 12 Compensation and Government Claims Board for payment of
 13 direct orders of restitution shall be paid to the victim within 60
 14 days from the date the restitution revenues are received by the
 15 California Victim Compensation and Government Claims Board.
 16 If the restitution payment to a victim is less than twenty-fi e dollars
 17 (\$25), then payment need not be forwarded to that victim until the
 18 payment reaches twenty-fi e dollars (\$25) or when the victim
 19 requests payment of the lesser amount.

20 (2) If a victim cannot be located, the restitution revenues
 21 received by the California Victim Compensation and Government
 22 Claims Board on behalf of the victim shall be held in trust in the
 23 Restitution Fund until the end of the state fiscal year subsequent
 24 to the state fiscal year in which the funds were deposited or until
 25 the time that the victim has provided current address information,
 26 whichever occurs sooner. Amounts remaining in trust at the end
 27 of the specified period of time shall revert to the Restitution Fund.

28 (3) (A) A victim failing to provide a current address within the
 29 period of time specified in paragraph (2) may provide
 30 documentation to the Department of Corrections and Rehabilitation,
 31 which shall verify that moneys were collected on behalf of the
 32 victim. Upon receipt of that verified information from the
 33 Department of Corrections and Rehabilitation, the California
 34 Victim Compensation and Government Claims Board shall transmit
 35 the restitution revenues to the victim in accordance with the
 36 provisions of subdivision (c) or (h).

37 (B) A victim failing to provide a current address within the
 38 period of time specified in paragraph (2) may provide
 39 documentation to the agency designated by the board of supervisors
 40 in the county where the prisoner punished by imprisonment in a

1 county jail pursuant to subdivision (h) of Section 1170 is
2 incarcerated, which may verify that moneys were collected on
3 behalf of the victim. Upon receipt of that verified information from
4 the agency, the California Victim Compensation and Government
5 Claims Board shall transmit the restitution revenues to the victim
6 in accordance with the provisions of subdivision (d) or (h).

7 *SEC. 15. Section 4904 of the Penal Code is amended to read:*

8 4904. If the evidence shows that the crime with which the
9 claimant was charged was either not committed at all, or, if
10 committed, was not committed by the claimant, and that the
11 claimant has sustained pecuniary injury through his or her
12 erroneous conviction and imprisonment, the California Victim
13 Compensation and Government Claims Board shall report the facts
14 of the case and its conclusions to the next Legislature, with a
15 recommendation that an appropriation be made by the Legislature
16 for the purpose of indemnifying the claimant for the pecuniary
17 injury. The amount of the appropriation recommended shall be a
18 sum equivalent to one hundred *thirty* dollars ~~(\$100)~~ (\$130) per
19 day of incarceration served subsequent to the claimant's conviction
20 and that appropriation shall not be treated as gross income to the
21 recipient under the Revenue and Taxation Code.

22 ~~SEC. 15.~~

23 *SEC. 16.* No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

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