

MEMORANDUM

DATE	May 4, 2017
TO	Policy and Advocacy Committee
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #6(c)(27) – AB 1061 (Gloria) Victim's Restitution

Background:

This bill would, among other things, broaden the circumstances under which psychiatric, psychological, and mental health counseling may be reimbursed, its application to derivative victims, and expand the timeframe for applying for compensation for specified sex offenses. This bill would also make additional compensation and reimbursement available to victims and derivative victims when those losses/costs (e.g. child care or transportation) were incurred in order to obtain medical or mental health treatment.

Location: Assembly Committee on Appropriations

Status: 4/26/17 Set first hearing. Referred to Assembly Committee on Appropriations Suspense File.

Votes: 3/21/2017 Assembly Committee on Public Safety (7-0-0)

Action Requested:

No action is required at this time. Staff will continue to watch AB 1061 (Gloria) due to its potential impact on access to mental health services for victims and derivative victims.

Attachment A: AB 1061 (Gloria) Text

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

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

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

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

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

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

(3) The board shall not require an applicant to submit documentation from the Internal Revenue Service, the Franchise Tax Board, the State Board of Equalization, the Social Security Administration, or the Employment Development Department to determine eligibility for compensation. The board may require and use documentation from these entities to verify the amount of compensation for income or support loss.

(d) (1) The board may recognize an authorized representative of the victim or derivative victim, who shall represent the victim or derivative victim pursuant to rules adopted by the board. *A suspected perpetrator of the crime for which compensation is sought shall not be an authorized representative.*

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

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

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

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

(4) The initial application materials sent by the board to an applicant shall be written in English, Spanish, Chinese, Vietnamese, Korean, East Armenian, Tagalog, Russian, Arabic, Farsi, Hmong, Khmer, Punjabi, and Lao. If the applicant selects one of the languages listed in this subdivision, the board shall send all subsequent communications in that language.

SEC. 2. Section 13953 of the Government Code is amended to read:

13953. (a) An application for compensation shall be filed within three years of the date of the crime, three years after the victim attains 18 years of age, or three years of the time the victim or derivative victim knew or in the exercise of ordinary diligence could have discovered that an injury or death had been sustained as a direct result of crime, whichever is later. An application based on any crime ~~eligible for prosecution under~~ *specified in paragraph (1) of subdivision (a) of Section 801.1 of the Penal Code* may be filed any time prior to the victim's ~~28th birthday.~~ *40th birthday. An application based on any crime named in paragraph (1) of subdivision (b) of Section 799 of the Penal Code may be filed at any time.*

(b) The board may for good cause grant an extension of the time period in subdivision (a). In making this determination, the board shall consider all of the following:

(1) Whether the victim or derivative victim incurs emotional harm or a pecuniary loss while ~~testifying~~ *testifying, or preparing to testify*, during the prosecution or in the punishment of the person accused or convicted of the crime.

(2) Whether the victim or derivative victim incurs emotional harm or a pecuniary loss when the person convicted of the crime is scheduled for a parole hearing or released from incarceration.

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

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

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

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

(1) A victim.

(2) A derivative victim.

(3) (A) A person who is entitled to reimbursement for funeral, burial, or crime scene cleanup expenses pursuant to paragraph ~~(9)~~ *(8)* or ~~(10)~~ *(9)* of subdivision (a) of Section 13957.

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

(b) Either of the following conditions is met:

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

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

(A) A resident of California.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) As a direct result of the crime, the victim or derivative victim sustained one or more of the following:

(1) Physical injury. The board may presume a child who has been the witness of a crime of domestic violence has sustained physical injury. A child who resides in a home where a crime or crimes of domestic violence have occurred may be presumed by the board to have sustained physical injury, regardless of whether the child has witnessed the crime.

(2) Emotional injury and a threat of physical injury.

(3) Emotional injury, where the crime was a violation of any of the following provisions:

(A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288, 288a, 288.5, 289, ~~or 653.2, or subdivision (b) or (e) of Section 311.4, of 311.1, 311.2, 311.3, 311.4, or 653.2 of~~ the Penal Code.

(B) Section 270 of the Penal Code, where the emotional injury was a result of conduct other than a failure to pay child support, and criminal charges were filed.

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

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

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

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

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

SEC. 4. Section 13957 of the Government Code is amended to read:

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

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

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health ~~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,~~ *counseling*, that became necessary as a direct result of the crime, subject to the following conditions:

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

(i) A victim.

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

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

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

(i) A derivative victim not eligible for reimbursement pursuant to subparagraph (A).

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

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

(iv) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is a primary caretaker of a minor victim.

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

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

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

~~(ii) (D)~~ *(D)* ~~A~~ *Expenses for psychiatric, psychological, or other mental health counseling-related services may be reimbursed only if the services were provided by a* person who is licensed ~~in California~~ *by the state* to provide those services, or who is properly supervised by a person who is ~~licensed in California to provide those services,~~ *so licensed*, subject to the board's approval and subject to the limitations and restrictions ~~the board may impose.~~ *imposed by the board.*

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

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

(5) Reimburse the expense of installing or increasing residential security, not to exceed ~~one two~~ *one two* thousand dollars ~~(\$1,000).~~ *(\$2,000)*. Installing or increasing residential security may include, but need not be limited to, both of the following:

(A) Home security device or system.

(B) Replacing or increasing the number of locks.

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

(7) (A) Authorize a cash payment or reimbursement not to exceed ~~two~~ *four* thousand ~~five~~ *hundred* dollars ~~(\$2,000)~~ *(\$4,500)* to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the ~~victim or~~ *victim*, by a mental health treatment provider to be necessary for the emotional well-being of the *victim, or by a doctor of medicine or doctor of osteopathic medicine to be a medical necessity for the* victim.

(B) The cash payment or reimbursement made under this paragraph shall only be awarded to one claimant per crime giving rise to the relocation. The board may authorize more than one relocation per crime if necessary for the personal safety or emotional well-being of the claimant. However, the total cash payment or reimbursement for all relocations due to the same crime shall not exceed ~~two~~ *four* thousand ~~five~~ *hundred* dollars ~~(\$2,000)~~ *(\$4,500)*. For purposes of this ~~paragraph~~ *paragraph*, a claimant is the crime victim, or, if the victim is deceased, a person who resided with the deceased at the time of the crime.

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

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

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

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

~~(E) (D)~~ Notwithstanding subparagraphs (A) and (B), the board may increase the cash payment or reimbursement for expenses incurred in relocating to an amount greater than ~~two~~ *four* thousand ~~five~~ *hundred* dollars ~~(\$2,000)~~ *(\$4,500)*, if the board finds this amount is appropriate due to the unusual, dire, or exceptional circumstances of a particular claim. *The total amount of a relocation payment under this subparagraph shall not exceed ten thousand dollars (\$10,000) regardless of circumstances.*

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

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

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

(B) The funeral and burial expenses incurred as a direct result of the crime, not to exceed seven thousand five hundred dollars (\$7,500). The board shall not create or comply with a regulation or policy that mandates a lower maximum potential amount of an award pursuant to this subparagraph for less than seven thousand five hundred dollars (\$7,500).

(9) When the crime occurs in a residence or inside a vehicle, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed ~~one~~ *two* thousand dollars ~~(\$1,000)~~ *(\$2,000)*. Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Public Health as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.

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

(11) Child care costs for adult victims or adult derivative victims when they are necessary due to appointments described by subparagraph (A), (B), or (C) of paragraph (5) of subdivision (a) of Section 13957.5.

(12) Transportation costs for adult victims or adult derivative victims associated with appointments described by subparagraph (A), (B), or (C) of paragraph (5) of subdivision (a) of Section 13957.5. Mileage reimbursement will be paid at the rate set forth for state employees by the Department of Human Resources.

~~(11)~~ (13) An award of compensation pursuant to paragraph (5) of subdivision (f) of Section 13955 shall be limited to compensation to provide mental health counseling and shall not limit the eligibility of a victim for an award that he or she may be otherwise entitled to receive under this part. A derivative victim shall not be eligible for compensation under this provision.

(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 award may be increased to an amount not exceeding seventy thousand dollars (\$70,000) if federal funds for that increase are available.

SEC. 5. Section 13957.2 of the Government Code is amended to read:

13957.2. (a) The board may establish maximum rates and service limitations for reimbursement of medical and medical-related services and for mental health and counseling services. The adoption, amendment, and repeal of these service limitations and maximum rates shall not be subject to the rulemaking provision of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1). An informational copy of the service limitations and maximum rates shall be filed with the Secretary of State upon adoption by the board. Any reduction in the maximum rates or service limitations shall not affect payment or reimbursement of losses incurred prior to three months after the adoption of the reduction. A provider who accepts payment from the program for a service shall accept the program's rates as payment in full and shall not accept any payment on account of the service from any other source if the total of payments accepted would exceed the maximum rate set by the board for that service. A provider shall not charge a victim or derivative victim for any difference between the cost of a service provided to a victim or derivative victim and the program's payment for that service. To ensure service limitations that are uniform and appropriate to the levels of treatment required by the victim or derivative victim, the board may review all claims for these services as necessary to ensure their medical ~~necessity~~: *necessity or their relation to crime*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Compensate adult victims for income loss if it is necessary for them to miss work due to:

(A) Verified medical or mental health appointments for injuries directly related to the qualifying crime.

(B) Attending necessary meetings with a district attorney's office or other prosecutorial agency, or attending required criminal court proceedings, that are directly related to the qualifying crime. The claimant's attendance shall be required and verified by a court employee or an employee at the prosecutorial office.

(C) Verified incidental appointments directly related to the qualifying crime. Income loss for incidental crime related appointments shall not exceed five hundred dollars (\$500).

(6) Compensate adult derivative victims for income loss when it is necessary for them to miss work due to taking a minor victim to an appointment described by subparagraph (A), (B), or (C) of paragraph (5).

(7) Notwithstanding the limitations set forth by paragraph (1), income loss resulting from appointments described by subparagraph (A), (B), or (C) of paragraph (5) may be paid for any date following the qualifying crime.

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

SEC. 7. Section 13957.9 of the Government Code 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-~~ *A person eligible under subparagraph (A) of paragraph (2) of subdivision (a) of Section 13957* may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars ~~(\$10,000)-~~ *(\$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:~~ *A person eligible under subparagraph (B) of paragraph (2) of subdivision (a) of Section 13957* may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed five thousand dollars ~~(\$5,000):~~ *(\$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.~~ *is an authorized mental health provider as determined by the board.*

(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 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) of Division 2 of the Business and Professions Code), the Educational Psychologist Practice Act (Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code), the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code), 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 supportive and nonpsychotherapeutic 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:

(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, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.