
OLR Bill Analysis

sSB 870

AN ACT CONCERNING VICTIM COMPENSATION.

SUMMARY:

This bill limits who can receive victim compensation by prohibiting compensation orders except for victims of certain motor vehicle-related crimes. But it expands who can be considered a victim of those crimes by extending eligibility to those who suffer emotional harm without a physical injury. The bill expands (1) the types of losses that can be used to calculate the amount of a compensation payment and (2) who can receive victim compensation as a victim's dependent.

The bill expands eligibility for victim services by including (1) victims threatened with physical injury or death and (2) those who suffer physical or emotion injuries as victims or witnesses of domestic terrorism. Victim services include medical, psychiatric, psychological, social, and social rehabilitative services.

The bill extends the chief court administrator's authority to adopt implementing policies and procedures to cover the response system for trafficking victims and the statewide victim information and notification system. As part of the information already provided to victims, the bill requires hospital emergency room posters and law enforcement personnel to provide information on these systems. It also requires the Office of Victim Services' (OVS) biennial report to the Judiciary Committee to cover these systems.

Lastly, the bill makes a number of minor and technical changes.

EFFECTIVE DATE: October 1, 2013

§§ 1 & 9-12—VICTIM COMPENSATION

Compensation Eligibility (§§ 1, 10, & 12)

Under current law, OVS or a victim compensation commissioner

can order compensation for victims injured or killed as a result of:

1. attempts to prevent crime, aid police, or apprehend criminal suspects;
2. attempts or actual commissions of any crime by another;
3. operation of a motor vehicle by someone else who violated certain motor vehicle-related statutes, even without a conviction;
4. an alleged sexual assault crime or risk of injury to a minor, absent a conviction, if the personal injury was disclosed to certain individuals (see COMMENT); or
5. terrorist crimes.

The bill prohibits compensation orders except for victims of the motor vehicle-related crimes. For this category of victims, the bill expands who can receive compensation by including victims who suffer only emotional harm. It defines emotional harm as mental or emotional impairment, directly attributable to a threat of serious physical injury or death, requiring treatment services. Currently, a victim must be killed or suffer bodily harm, and any mental anguish is eligible for compensation only if it is related to a physical injury.

Motor Vehicle-Related Crimes. Under current law, someone can receive victim compensation if injured due to:

1. the operation of a motor vehicle by someone else in violation of the statutes on driving under the influence of drugs or alcohol,
2. 2nd degree assault with a motor vehicle while intoxicated,
3. 2nd degree manslaughter with a motor vehicle while intoxicated,
or
4. evading responsibility after causing serious physical injury or death with a motor vehicle.

OVS can award compensation without a conviction. The bill also

allows compensation if the driver violates the statutes on evading responsibility after causing physical injury or property damage with a (1) motor vehicle or (2) other vehicle. Because the bill still requires operating a motor vehicle in these provisions, it does not appear that someone can receive compensation based on violation of the statute punishing evading responsibility with another type of vehicle.

As under current law, claims related to the motor vehicle offenses must be filed within two years of the injury or death, and a police report must be filed within five days of the crime or when it could reasonably have been reported.

Calculating Compensation (§§ 1 & 11)

Under current law, OVS or a victim compensation commissioner can order compensation for:

1. expenses actually and reasonably incurred as a result of personal injury or death (compensation for medical care and treatment costs must be ordered if the victim does not have insurance or exhausted it or Medicaid),
2. loss of earning power due to the victim's total or partial incapacity,
3. pecuniary loss of a homicide victim's spouse or dependents,
4. pecuniary loss of a deceased victim's relatives or dependents due to attending court, and
5. other losses resulting from the victim's injury or death and determined to be reasonable.

For all of these categories, the bill extends compensation for losses and expenses based on a victim's emotional harm, even without a physical injury.

The bill also allows compensation for (1) a victim's pecuniary loss related to attending court and (2) lost wages of a deceased minor victim's parent or guardian, up to \$5,000.

As under current law:

1. compensation cannot cover losses sustained to property, or noneconomic damages such as pain and suffering;
2. the maximum allowable compensation award is \$15,000, except that dependents of a homicide victim can receive up to \$25,000; and
3. awards can exceed the maximum allowable compensation for good cause and compelling equitable circumstances.

Dependents Receiving Compensation Payments (§§ 1 & 9)

By law, OVS or a victim compensation commissioner can pay victim compensation to an injured victim, a person responsible for the victim's maintenance who suffers pecuniary loss as a result of the victim's injury, dependents of a deceased victim, or a person who suffered pecuniary loss because of the victim's death.

The bill expands who is considered a dependent and, thus, eligible for compensation. Currently, a dependent is a relative or person, designated by the deceased victim to make certain decisions on his or her behalf, who is wholly or partially dependent on the victim's income at the time of the victim's death. The bill adds uncles, aunts, nephews, nieces, a fiancé, a fiancée, and brothers- and sisters-in-law, other than someone responsible for a crime causing death.

The bill removes a requirement that a person designated to make decisions on the victim's behalf be dependent on the victim's income to qualify as a dependent.

§ 15—VICTIM SERVICES

The bill expands who is eligible for victim services, which include medical, psychiatric, psychological, social, and social rehabilitative services.

Currently, a victim or other eligible individual can receive services if the victim received a personal injury or died from (1) attempting to

prevent a crime or apprehend a suspect or assisting a police officer to do so, (2) another's commission or attempt to commit a crime, or (3) a crime of international terrorism under federal law. The bill expands eligibility to include someone who:

1. was threatened with physical injury or death in any of the circumstances described above or
2. suffered physical or emotional injury as result of being in (a) direct proximity of an act of domestic terrorism, including those responding to the location of the act, or (b) general proximity of an act of domestic terrorism and witnessing it through one of the five senses.

An act of domestic terrorism is a felony involving the unlawful use or threatened use of physical force or violence committed with intent to intimidate or coerce the civilian population or a government.

This expanded definition of victim also applies to OVS' other responsibilities to victims including providing notices, training, and working with other agencies.

§ 5—CONFIDENTIALITY

The bill specifies that information OVS or a compensation commissioner obtains for determining a claim remains confidential if protected by federal law. As under current law, it remains confidential if protected by state law.

COMMENT

The bill gives certain sexual assault victims claiming victim compensation an exemption from the requirement to provide notice to police of the crime. But the bill limits eligibility for victim compensation awards only to victims of certain motor vehicle-related crimes. Thus, the effect of this reporting exception is unclear.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 1 (03/13/2013)