

**ASSEMBLY BILL**

**No. 1865**

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**Introduced by Assembly Member Lackey**  
(Coauthor: Senator Wiener)

January 12, 2018

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An act to amend Sections 13955 and 13957 of the Government Code, and to amend Sections 600.2 and 600.5 of the Penal Code, relating to guide, signal, and service dogs, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1865, as introduced, Lackey. Guide, signal, and service dogs: injury or death.

Under existing law, it is an infraction or a misdemeanor for any person to permit any dog that is owned, harbored, or controlled by him or her to cause injury to, or the death of, any guide, signal, or service dog, as defined, while the guide, signal, or service dog is in discharge of its duties. Existing law makes any person who intentionally causes injury to, or the death of, any guide, signal, or service dog, as defined, while the dog is in discharge of its duties, guilty of a misdemeanor. Under existing law, if a defendant is convicted of either of these crimes, the defendant is required to make restitution to the person with a disability who has custody or ownership of the dog for any veterinary bills and replacement costs of the dog if it is disabled or killed, or other reasonable costs deemed appropriate by the court. Existing law provides for the compensation of victims of certain crimes by the California Victim Compensation Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law authorizes the person with a disability in either of the above crimes to apply for compensation by the board for veterinary

bills and replacement costs if the dog is disabled or killed, or other reasonable costs, as specified, in an amount not to exceed \$10,000.

This bill would delete, from both crimes, the requirement that the guide, signal, or service dog be in discharge of its duties when the injury or death occurs and would make these crimes applicable to the injury or death of dogs that are enrolled in a training school or program for guide, signal, or service dogs, as specified. The bill would require the defendant, convicted of either crime, to also make restitution to the person for medical or medical-related expenses, or for loss of wages or income, incurred by the person as a direct result of the crime. The bill would authorize the disabled person to apply for compensation from the California Victim Compensation Board and would authorize the board to pay compensation for medical and medical-related expenses, and loss of wages or income incurred by the person with a disability as a direct result of a violation of those criminal provisions, in an amount not to exceed \$10,000.

By expanding the authorization for the use of moneys in the continuously appropriated Restitution Fund, this bill would make an appropriation.

Because this bill would expand the scope and penalties of existing crimes, it would impose 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:  $\frac{2}{3}$ . 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 13955 of the Government Code is
- 2 amended to read:
- 3 13955. Except as provided in Section 13956, a person shall be
- 4 eligible for compensation when all of the following requirements
- 5 are met:
- 6 (a) The person for whom compensation is being sought is any
- 7 of the following:
- 8 (1) A victim.
- 9 (2) A derivative victim.

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

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

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

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

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

13 (A) A resident of California.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (A) Section 236.1, 261, 262, 271, 273a, 273d, 285, 286, 288,  
29 288a, 288.5, 289, or 653.2, or subdivision (b) or (c) of Section  
30 311.4, of the Penal Code.

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

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

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

1 (4) Injury to, or the death of, a guide, signal, or service dog, as  
2 defined in Section 54.1 of the Civil Code, *and medical or*  
3 *medical-related expenses of, and loss of wages or income incurred*  
4 *by the disabled person* as a result of a violation of Section 600.2  
5 or 600.5 of the Penal Code.

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

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

12 SEC. 2. Section 13957 of the Government Code is amended  
13 to read:

14 13957. (a) The board may grant for pecuniary loss, when the  
15 board determines it will best aid the person seeking compensation,  
16 as follows:

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

24 (2) Subject to the limitations set forth in Section 13957.2,  
25 reimburse the amount of outpatient psychiatric, psychological, or  
26 other mental health counseling-related expenses incurred by the  
27 victim or derivative victim, including peer counseling services  
28 provided by a rape crisis center as defined by Section 13837 of  
29 the Penal Code, and including family psychiatric, psychological,  
30 or mental health counseling for the successful treatment of the  
31 victim provided to family members of the victim in the presence  
32 of the victim, whether or not the family member relationship  
33 existed at the time of the crime, that became necessary as a direct  
34 result of the crime, subject to the following conditions:

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

38 (i) A victim.

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

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

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

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

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

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

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

33 (i) A person who would have been authorized to provide those  
34 services pursuant to former Article 1 (commencing with Section  
35 13959) as it read on January 1, 2002.

36 (ii) A person who is licensed in California to provide those  
37 services, or who is properly supervised by a person who is licensed  
38 in California to provide those services, subject to the board's  
39 approval and subject to the limitations and restrictions the board  
40 may impose.

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

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

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

18 (A) Home security device or system.

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

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

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

32 (B) The cash payment or reimbursement made under this  
33 paragraph shall only be awarded to one claimant per crime giving  
34 rise to the relocation. The board may authorize more than one  
35 relocation per crime if necessary for the personal safety or  
36 emotional well-being of the claimant. However, the total cash  
37 payment or reimbursement for all relocations due to the same crime  
38 shall not exceed two thousand dollars (\$2,000). For purposes of  
39 this paragraph a claimant is the crime victim, or, if the victim is

1 deceased, a person who resided with the deceased at the time of  
2 the crime.

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

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

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

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

19 (E) Notwithstanding subparagraphs (A) and (B), the board may  
20 increase the cash payment or reimbursement for expenses incurred  
21 in relocating to an amount greater than two thousand dollars  
22 (\$2,000), if the board finds this amount is appropriate due to the  
23 unusual, dire, or exceptional circumstances of a particular claim.

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

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

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

34 (B) The funeral and burial expenses incurred as a direct result  
35 of the crime, not to exceed seven thousand five hundred dollars  
36 (\$7,500). The board shall not create or comply with a regulation  
37 or policy that mandates a lower maximum potential amount of an  
38 award pursuant to this subparagraph for less than seven thousand  
39 five hundred dollars (\$7,500).



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

11 (10) When the crime is a violation of Section 600.2 or 600.5 of  
12 the Penal Code, the board may reimburse the expense of veterinary  
13 services, replacement costs, *medical or medical-related expenses*  
14 *of, and loss of wages or income incurred by, the disabled person,*  
15 or other reasonable expenses, as ordered by the court pursuant to  
16 Section 600.2 or 600.5 of the Penal Code, in an amount not to  
17 exceed ten thousand dollars (\$10,000).

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

24 (b) The total award to or on behalf of each victim or derivative  
25 victim may not exceed thirty-five thousand dollars (\$35,000),  
26 except that this award may be increased to an amount not exceeding  
27 seventy thousand dollars (\$70,000) if federal funds for that increase  
28 are available.

29 SEC. 3. Section 600.2 of the Penal Code is amended to read:

30 600.2. (a) It is a crime for any person to permit any dog ~~which~~  
31 *that* is owned, harbored, or controlled by him or her to cause injury  
32 ~~to to,~~ or the death ~~of of,~~ any guide, signal, or service dog, as defined  
33 by Section 54.1 of the Civil ~~Code,~~ while the guide, signal, or  
34 service dog is in discharge of its duties. *Code.*

35 (b) A violation of this section is an infraction punishable by a  
36 fine not to exceed two hundred fifty dollars (\$250) if the injury or  
37 death to any guide, signal, or service dog is caused by the person's  
38 failure to exercise ordinary care in the control of his or her dog.

39 (c) A violation of this section is a misdemeanor if the injury or  
40 death to any guide, signal, or service dog is caused by the person's

1 reckless disregard in the exercise of control over his or her dog,  
 2 under circumstances that constitute such a departure from the  
 3 conduct of a reasonable person as to be incompatible with a proper  
 4 regard for the safety and life of any guide, signal, or service dog.  
 5 A violation of this subdivision shall be punishable by imprisonment  
 6 in a county jail not exceeding one year, or by a fine of not less  
 7 than two thousand five hundred dollars (\$2,500) nor more than  
 8 five thousand dollars (\$5,000), or ~~both~~ *by both that fine and*  
 9 *imprisonment*. The court shall consider the costs ordered pursuant  
 10 to subdivision (d) when determining the amount of any fines.

11 ~~(d) In any case in which a defendant~~ *A defendant who is*  
 12 ~~convicted of a violation of this section, the defendant~~ *section shall*  
 13 *be ordered to make restitution to the person with a disability who*  
 14 *has custody or ownership of the guide, signal, or service dog for*  
 15 *any veterinary bills and replacement costs of the dog if it is disabled*  
 16 *or killed, medical or medical-related expenses of, and loss of wages*  
 17 *or income incurred by, the person with a disability as a direct*  
 18 *result of a violation of this section, or other reasonable costs*  
 19 *deemed appropriate by the court. The costs ordered pursuant to*  
 20 *this subdivision shall be paid prior to any fines. The person with*  
 21 *the disability may apply for compensation by the California Victim*  
 22 *Compensation Board pursuant to Chapter 5 (commencing with*  
 23 *Section 13950) of Part 4 of Division 3 of Title 2 of the Government*  
 24 *Code, in an amount not to exceed ten thousand dollars (\$10,000).*

25 *(e) For the purpose of this section, a “guide, signal, or service*  
 26 *dog” also includes a dog enrolled in a training school or program,*  
 27 *located in this state, for guide, signal, or service dogs.*

28 SEC. 4. Section 600.5 of the Penal Code is amended to read:

29 600.5. (a) Any person who intentionally causes injury ~~to~~ *to,*  
 30 ~~or the death of~~ *of,* any guide, signal, or service dog, as defined by  
 31 Section 54.1 of the Civil Code, ~~while the dog is in discharge of its~~  
 32 ~~duties~~; is guilty of a misdemeanor, punishable by imprisonment  
 33 in a county jail not exceeding one year, or by a fine not exceeding  
 34 ten thousand dollars (\$10,000), or by both a fine and imprisonment.  
 35 The court shall consider the costs ordered pursuant to subdivision  
 36 (b) when determining the amount of any fines.

37 ~~(b) In any case in which a defendant~~ *A defendant who is*  
 38 ~~convicted of a violation of this section, the defendant~~ *section shall*  
 39 *be ordered to make restitution to the person with a disability who*  
 40 *has custody or ownership of the dog for any veterinary bills and*

1 replacement costs of the dog if it is disabled or killed, *medical or*  
2 *medical-related expenses of, and loss of wages or income incurred*  
3 *by, the person with a disability as a direct result of a violation of*  
4 *this section*, or other reasonable costs deemed appropriate by the  
5 court. The costs ordered pursuant to this subdivision shall be paid  
6 prior to any fines. The person with the disability may apply for  
7 compensation by the California Victim Compensation Board  
8 pursuant to Chapter 5 (commencing with Section 13950) of Part  
9 4 of Division 3 of Title 2 of the Government Code, in an amount  
10 not to exceed ten thousand dollars (\$10,000).

11 *(c) For the purpose of this section, a “guide, signal, or service*  
12 *dog” also includes a dog enrolled in a training school or program,*  
13 *located in this state, for guide, signal, or service dogs.*

14 SEC. 5. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.