

ASSEMBLY BILL

No. 1865

Introduced by Assembly Member Lackey
(Coauthor: Senator Wiener)

January 12, 2018

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.