

Date of Hearing: April 19, 2016

ASSEMBLY COMMITTEE ON AGING AND LONG-TERM CARE

Cheryl Brown, Chair

AB 1754 (Waldron) – As Amended March 16, 2016

SUBJECT: Crime victim compensation: elder or dependent adult financial abuse.

SUMMARY: Creates a pilot program in San Diego County permitting the Victims of Crime Program (CalVCP) to reimburse victims of elder and dependent adult financial abuse for costs of financial and mental-health counseling, and requires the California Victim Compensation and Government Claims Board to report to the Legislature and the Governor. Specifically, **this bill:**

- 1) Makes various findings and declarations regarding the steep increase in California's population of those aged 65 and greater than that of any other state, reaching 4.2 million in 2010;
- 2) States that the Department of Social Services reports 1,600 reports of elder and dependent adult financial abuse are under investigation per month by county Adult Protective Services offices statewide;
- 3) Makes various findings and declarations regarding elder or dependent adult financial abuse, that elderly and other dependent adults are seen as prey for financial scam artists who capitalize upon their loneliness, isolation, and vulnerability and that this victimization can decrease life spans, generate severe anxiety and hopelessness;
- 4) Concludes that a pilot is necessary to inform legislative members of the demand for, costs of, and outcomes of victim services leading to best practices protocols;
- 5) Establishes the San Diego County Elder or Dependent Adult Financial Abuse Crime Victim Compensation Pilot Program within San Diego County;
- 6) Authorizes the pilot project to provide direct victims of elder or dependent adult financial abuse pecuniary compensation for expenses associated with financial counseling, mental health counseling or supportive services;
- 7) Permits the compensation if funds are appropriated by the Legislature before January 1, 2019;
- 8) Makes compensation limited to \$3,000 per client for the total costs of not more than 10 financial counseling sessions, as defined, 10 mental health counseling sessions and supportive services such as emergency shelter, cognitive assessments, and transportation;
- 9) Places a limit on total compensation authorized by the pilot project for all persons compensated at \$1,000,000;
- 10) The provisions of the project become inoperative on January 1, 2020, and are repealed on January 1, 2021; and,

- 11) Requires the California Victim Compensation and Government Claims Board to report on or before July 1, 2020, both electronically and in writing to the Legislature and the Governor, data related to the number of victims who received payments, the number of victims who received mental health counseling, the average payment for mental health counseling per recipient, the number of victims who received financial counseling and the average payment for financial counseling per recipient; and any other data that the Board wishes to provide.

EXISTING LAW:

- 1) Protects seniors and dependent adults with the Elder Abuse and Dependent Adult Civil Protection Act (EADACPA) which provides civil protections and remedies for victims of elder and dependent adult abuse and neglect.
- 2) Defines elder as any person who is 65 years of age or older and defines “dependent adult” as any person who is between the ages of 18 and 64, who has physical or mental limitations which restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental disabilities have been diminished because of age, or any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility.
- 3) Provides for referrals of abuse to Adult Protective Services agencies, Long-Term Care Ombudsman (LTCO) programs, and local law enforcement agencies from public or private agencies, mandated reporters, or any other source having reasonable cause to know that the welfare of an elder or dependent adult is endangered.
- 4) Contains uniform state guidelines, which specify when county adult protective service agencies are to investigate allegations of abuse of elders and dependent adults and the appropriate role of local law enforcement is necessary in order to ensure that a minimum level of protection is provided to elders and dependent adults in each county.
- 5) Authorizes law enforcement, the LTCO and/or Adult Protective Services (APS) to take any actions considered necessary to protect the elder or dependent adult and correct the situation and ensure the individual’s safety.
- 6) Defines “financial abuse” of an elder or dependent adult occurs when a person or entity takes, secretes, appropriates, or retains real or personal property of an elder or dependent adult to a wrongful use or with intent to defraud.
- 7) Authorizes the California Victims and Government Claims Board to assist victims of crime.
- 8) Establishes the California Victim Compensation Program (CalVCP) which can help pay bills and expenses that result from certain violent crimes.

FISCAL EFFECT: Unknown**COMMENTS:**

Author’s Statement: This bill “would establish a pilot program for victims of elder and dependent adult financial abuse in San Diego County to be eligible for financial assistance through the California Victims’ Compensation program. Elder and dependent adult financial

abuse can lead to large costs to victims, families, and society. The Penal Code specifically cites the increased vulnerability of the elderly and dependent adult victims as a justification for higher criminal penalties for perpetrators of financial crimes. In the Welfare and Institutions Code, the Elder and Dependent Adult Civil Protection Act cites the Legislature's responsibility to protect this vulnerable population from criminal acts."

Elder Abuse: There has been a growing amount of research into the nature and extent of elder and dependent adult abuse. One study suggests that approximately 6% of the 65+ population will report physical, financial, mental and other forms of abuse in any given year. The Department of Social Services (DSS) oversees the Adult Protective Services (APS) program and reports approximately 9,500 cases per month of elder and dependent adult abuse are reported and investigated. About 1,600 of the reports reflect financial abuse or exploitation. In 2014-2015, San Diego County's Adult Protective Services confirmed a total of 1,148 unique reports of elder and dependent adult financial abuse. The San Diego District Attorney estimates approximately 600 elderly and dependent adult victims are served annually, averaging about 50 clients per month. It is estimated that elder victims of financial abuse suffer upwards of \$2.9 billion annual financial loss. Data from the National Center on Elder Abuse shows that women are about twice as likely as men to be abused, and that the older one is, the greater the risk is for suffering abuse.

Victim Relief: The Victims of Crime and Government Claims Board administers the State's Government Claims Program, Victim Compensation Program, and Revenue Recovery Program. The California Victim Compensation Program (CalVCP) is designed to help pay bills and expenses that result from being a victim of certain crimes. Currently, the program is not authorized by state law to address elder and dependent adult financial crimes. Federal law already permits this funding purpose.

Arguments in Support: The California Commission on Aging, a co-sponsor with the California Elder Justice Coalition, states that "studies show that elderly and dependent adult victims of financial abuse have a decreased lifespan, suffer emotional trauma, and often face impoverishment," and note that other states have already moved ahead to extend assistance to elderly and dependent adult victims of financial abuse, including Colorado, Florida, Idaho, New York, Oklahoma, and Wyoming, among others. The Commission notes that despite having the largest population of residents over 65, California does not allow Cal-VCP funds to be used to reimburse for services that older and dependent adult victims of financial crimes need to recover.

The District Attorney of San Diego County, Bonnie Dumanis, states that "one of the highest priorities of the office of the District Attorney is protecting and assisting victims of crime" and notes that this bill would provide an important solution to address elder abuse.

Question: Why is San Diego the only county authorized to participate in this pilot?

Related Legislation:

SB 60 (Wright), Chapter 147, Statutes of 2013 as introduced, would have made elder and dependent adult victims of financial crimes (P.C. 368 (d) and (e)) eligible for up to \$10,000 in compensation from the Victim Compensation Fund for mental health counseling and financial counseling. The elder abuse provision was amended out in Senate Appropriations and the bill went forward with provisions making victims of human trafficking eligible for benefits.

AB 1140 (Bonta), Chapter 569, Statutes of 2015 implemented recommendations made by the “CalVCP Statute Modernization Project.” The measure also made a number of other improvements to address emerging issues in law.

REGISTERED SUPPORT / OPPOSITION:

Support

California Commission on Aging – Co-Sponsor
California Elder Justice Coalition – Co-Sponsor
AARP
The Arc and United Cerebral Palsy California Collaboration
California Association of Area Agencies on Aging
California Long-Term Care Ombudsman Association (CLTCOA)
Office of the State Long-Term Care Ombudsman
Professional Fiduciary Association of California
San Diego County District Attorney

Opposition

None on file.

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