

Senate Bill 838

FAIR ACCESS TO VICTIM ASSISTANCE

Senator Caroline Menjivar (D – San Fernando Valley)

SUMMARY

SB 838 removes barriers faced by victims of police violence in accessing California's Victim Compensation program.

PROBLEM

Current eligibility restrictions can lock victims of police violence and their families out of necessary and important assistance.

Existing law requires the California Victim Compensation Board (CalVCB) to verify that a crime occurred based on the police report and deny applications if it finds that the victim was involved in the events that gave rise to the application, giving significant weight to the opinion of law enforcement. Survivors may be denied for noncooperation with police, and—for most victims—CalVCB cannot approve a claim without a police report. Yet data collected by the U.S. Department of Justice in 2021 found that more than half of all violent victimizations (54%) are never reported to the police. CalVCB may use other evidence to establish that a crime occurred for victims of sexual assault, domestic violence, and human trafficking, but other victims are currently not afforded the same flexibility.

These restrictions are especially wrong for survivors of police violence and loved ones of those killed by police, as a police report documenting the victimization is often elusive, and officers are rarely charged. CalVCB must also typically rely on the opinion of police when assessing a victim's responsibility—so the very people responsible for the injury may be tasked with documenting it and assigning blame.

These policies can also entrench racialized perceptions of survivors as “deserving” or “undeserving”, and compound trauma for victims and loved ones who receive the message that their experience or loss is not worthy of support.

BACKGROUND

The Victim Compensation program is an important pathway for survivors to access support, as it can cover specific expenses such as medical bills, funeral and burial expenses, and counseling. As a payor of last resort, assistance is available only when a survivor has no other avenue for covering these costs (e.g. insurance or Medi-Cal). There are also limits on how much can be paid for each expense, and expenses must result directly from the crime.

SOLUTION

SB 838 is critically important, as it ensures that more survivors receive the support needed to address their trauma, regardless of who caused that harm. Survivors of police violence should not have to overcome unjust barriers to compensation. Ultimately, this bill will improve access to this crucial program for survivors.

First, this bill would ensure that the definitions of “crime” and “victim” for the purposes of compensation presumptively include victims who are seriously injured or killed by police use of force, regardless of whether an officer is arrested or charged.

Applicants will be denied compensation if the person injured by law enforcement is convicted of committing a violent felony as defined in PC § 667.5 at the time, and could not receive compensation while such charges are pending. Victims or family members of deceased victims would also not be eligible if the victim caused serious bodily injury or death to another person at the time. No victim is eligible to receive compensation while in jail or prison, or while on probation or parole for a violent offense.

Second, SB 838 would allow survivors of police use of force to use documentation other than a police report to verify that a crime occurred, extending flexibility already available to domestic violence, sexual assault, and human trafficking survivors. It would also prohibit denial based solely on the contents of a police report alone in cases of police violence.

Third, in cases involving police use of force, SB 838 would bar exclusions based on whether the victim or their family cooperated with law enforcement following the crime.

STATUS

Introduced – February 17, 2023

SUPPORT

Californians for Safety and Justice (Co-Sponsor)
Crime Survivors for Safety and Justice (Co-Sponsor)
Prosecutors Alliance of California (Co-Sponsor)
Youth ALIVE! (Co-Sponsor)

CONTACT

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