



AB 629 (Smith & Gonzalez)

Human Trafficking: Victim Compensation Program
Assemblywoman Christy Smith, 38th District

SUMMARY

AB 629 (Smith & Gonzalez) creates parity within California's Victim Compensation Program (VCP) for victims of human trafficking by allowing them to receive compensation from the for economic losses incurred as a direct result of their being trafficked, commensurate with the benefit levels that are granted to victims of other crimes.

BACKGROUND

In 1965, California created the nation's first program to compensate victims of crime. The California Victim Compensation Board (CalVCB) is responsible for administering the Victim's Compensation Program (VCP). The Board is consists of three members: the Secretary of the Government Operations Agency who serves as the chair, the State Controller, and a public member appointed by the Governor.

The VCP provides reimbursement for crime-related expenses to victims who suffer physical injury or the threat of physical injury as a result of violent crime. CalVCB helps crime victims and their families cover unforeseen expenses such as medical bills, mental health treatment, funeral and burial expenses, income loss and more. To be eligible for compensation, a person must be a victim of a qualifying crime involving physical injury, threat of physical injury or death. For certain crimes, emotional injury alone is enough to qualify. There are also limits on how much may be paid for each crime related expense. Some examples of covered expenses include medical and dental treatment, mental health services, home and vehicle modifications for victims who became disabled, and income loss.

The program is not supported by taxpayer dollars, but is funded instead through the State Restitution Fund from restitution fines and orders, and penalty assessments levied on those who have been convicted of crimes and traffic offenses. The program also receives federal matching funds from the Victims of Crimes Act (VOCA).

Currently, federal and state laws and regulations allow crime victims to be compensated for lost income that is directly related to the crime perpetrated against them. CalVCB interprets the law narrowly, and as a result

human trafficking victims cannot submit a claim for lost or underpaid wages.

Current regulations are written specifically for a crime victim who was employed and then stopped working in the aftermath of the crime. The regulations require formal evidence of employment, e.g., documentation from the Tax Board, workers' compensation carriers, or employer reported withholding, such as a W-2. In nearly every human trafficking case it is impossible to satisfy this evidentiary requirement. Requiring human trafficking victims who are exploited commercially to provide this type of evidence effectively precludes them from obtaining lost income compensation—no trafficker provides a paystub or W-2 to their victim.

Due to the unique labor-oriented nature of human trafficking, every trafficking victim is forced to labor for sustained periods with limited or no pay, regardless of their prior employment status. These victims often suffer lost income in a more direct and prolonged manner than victims of other violent crimes because they are deprived of wages during the commission of the crime and after they are released from bondage and cannot immediately return to work.

Victims that escape their trafficking situation are often far from home and without any community support systems. Unable to meet even their most basic necessities, they also do not have access to the types of documents that victims of other crimes may use to establish income loss and move forward with their recovery.

THIS BILL

AB 629 clarifies that victims of human trafficking may receive compensation for lost income that the person incurred during the crime of human trafficking, if the loss was a direct result of being trafficked. It expands the types of documentation the Board may accept in determining the income loss and includes a formula for restitution. This bill also caps the total compensation a victim may receive at \$10,000 per year, for a maximum of two years (\$20,000), and specifies that the Victim's Compensation Program is the payer of last resort.



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OPPOSED

None