

**SUBJECT:** Crime victims' compensation fund revisions

**COMMITTEE:** Criminal Jurisprudence — favorable, with amendment

**VOTE:** 7 ayes — Place, Talton, Dunnam, Galloway, Hinojosa, Nixon, A. Reyna  
0 nays  
2 absent — Farrar, Keel

**WITNESSES:** For — Laura Lyons and Amy Wong Mok, Texas Association Against Sexual Assault; Christina Schneider and Pat Cole, Texas Council on Family Violence; Jane Quantan Piper and Chandler Gray, Texas CASA, Inc; Sherri Wallace, Dallas County Criminal District Attorney's Office; John Davis, El Paso District Attorneys Office; Barry Macha; Grace L. Davis; Natacha Pelaez-Wagner; Vincent Torres  
Against — None  
On — Laurel Kelly, Office of the Attorney General

**BACKGROUND :** The Crime Victims' Compensation Act, enacted in 1979, establishes guidelines for reimbursement from the crime victims compensation fund of certain expenses to victims of violent crimes who are unable to recover them from other sources such as insurance, workers' compensation, Social Security, Medicaid or Medicare. In addition to crime victims, other persons can receive payments from the fund for some expenses. These include dependants, immediate family members, household members related to the victim and persons who legally assume the obligation or voluntarily pay certain expenses for the victim.  
Reimbursement is allowed for expenses such as medical, counseling, rehabilitation, funeral and child care but not property damage Money in the fund comes primarily from court costs and fees imposed on criminal offenders. The attorney general administers the fund.  
Since 1979 the crime victims' compensation fund has made about 66,700 awards to crime victims for about \$230 million. In fiscal 1996 about \$28

million was awarded to about 9,543 victims.

**DIGEST:**

HB 3062 would increase the maximum benefit that can be paid from the crime victims' compensation fund, expand the types of persons who can receive reimbursements from the fund, extend deadlines for applying for reimbursement, and establish an emergency reserve fund for victims of mass violence and international terrorism.

HB 3062 would apply only to applications for compensation for crimes that occur on or after September 1, 1997, the bill's effective date.

**Benefits.** HB 3062 would increase from \$25,000 to \$50,000 the maximum amount payable from the fund to a victim for all claims based on injury or death of one victim. It also would increase from \$25,000 to \$50,000 the additional amount that can be awarded beyond the limit in catastrophic cases.

The bill would make other changes involving benefits, including:

- allowing benefits to be paid for medically indicated services related to the crime and for participation in or attendance at criminal justice system investigative, prosecutorial and judicial processes;
- allowing for all child care expenses, not just those necessary for persons to continue gainful employment; and
- removing vacation and sick leave and proceeds from life insurance policies from consideration when calculating benefits to be paid.

**Eligible recipients.** HB 3062 would expand the definition of dependants who can receive benefits from dependants of *deceased* crime victims to include dependents of *all* crime victims. The bill also would remove a restriction that allows benefits to be paid for loss of support to dependents only if a victim dies. Dependents of all victims would be eligible for benefits as long as the benefits did not aid an offender or the offender's accomplice.

It would expand the definition of immediate family members to include persons related by blood or marriage within the second degree. The bill also would expand the persons who can receive benefits to include: (1) peace officers, firefighters or others whose job is to protect the public; (2) Texas residents who suffer personal injury or death due to terrorism; and (3) Texas residents who suffer injury or death in other countries that do not have crime victims compensation programs.

**Deadlines.** HB 3062 would extend the current deadline for filing an application for reimbursement from the fund from one year after the crime to three years. If the victim were a child, the deadline would be changed from one year after the victim or claimant was aware of the crime to three years after the victim was aware of the crime, up to the child's 21st birthday. Persons would be able to present evidence of mental incapacity, in addition to the current provision for physical incapacity, to have the filing deadline extended.

HB 3062 would change the deadline in which victims must report their crimes from 72 hours after the crime to “within a reasonable period of time” as long as it was not so late that it interfered with or hampered the investigation and prosecution of the crime.

The bill also would extend the deadline for victims to file a notice of dissatisfaction with the attorney general's decision regarding payment from 20 days to 40 days after the decision and the deadline for victims to file a lawsuit after giving notice to the attorney general from 20 days to 40 days after giving the notice.

**Emergency reserve.** If there were surplus funds after all claims had been paid in a fiscal year, HB 3032 would allow funds to be placed in an emergency reserve fund that could be used only to pay claims and provide emergency assistance for victims of mass violence or international terrorism occurring in Texas or for Texas residents who are victims of terrorism outside the United States. Awards could be made for crisis intervention, emergency housing, travel, food or other expenses. The reserve fund could not exceed \$10 million.

**Miscellaneous.** The bill would make other changes, including:

- allowing the attorney general to carry forward funds into the next fiscal year, not to exceed 25 percent of the amount disbursed from the fund;
- require the attorney general to deny applications if the claimant knowingly or intentionally submitted false or forged information;
- specify that the crime victims fund is the payer of last resort; and
- require funds from another state's or country's crime victims compensation fund and from self-funded health care benefits to be considered when calculating benefits and to no longer consider payments from state-required temporary nonoccupational disability insurance.

SUPPORTERS  
SAY:

HB 3062 would fine-tune and broaden the Crime Victim's Compensation Act to allow the now-healthy fund to be used as the Legislature envisioned — to help crime victims who suffer through no fault of their own. The changes in HB 3062 are appropriate and fiscally responsible. It would be unwise to expand the program beyond its original intent of making direct payments to victims and others harmed by crime.

Increasing the maximum award to \$50,000 would allow for the fund to meet the needs of victims who have suffered large losses. While the average award is about \$3,500, some victims suffer much greater losses. HB 3062 would allow increased payments to these victims without affecting the large number of victims with smaller losses. Increasing the cap on the additional payment allowed in catastrophic cases would further help persons who suffer total and permanent disability. These caps apply to the aggregate amounts per applications and would not allow numerous persons making claims related to one victim to receive the maximum amount.

Allowing expenses relating to the investigatorial, prosecutorial and judicial process is proper because these expenses are a direct result of the crime. Victims' attendance during these processes is often necessary for the successful prosecution of a crime.

HB 3082 would broaden eligibility for the fund so that all dependents of

crime victims, not just those of victims who die, additional family members, peace officers, and others could receive reimbursements. It would allow step-siblings and step-grandparents to qualify for payments. These persons are affected by violent crime and the resulting expenses and should be eligible for reimbursements. All expenses, no matter who requests reimbursement, must still be approved by the attorney general.

Increasing the time that victims have to report crimes and to make applications to the fund would give victims time to recover from their ordeal but still set reasonable limits. This could be especially important for victims of sex crimes who often have a hard time dealing with the offense and may need additional time to make an application to the fund.

The emergency reserve fund that the bill would establish would allow the fund to assist victims of crimes such as the Oklahoma City bombing. The funds could be used for such expenses as emergency housing or crisis intervention. The fund would be composed of surplus funds and capped at \$10 million.

OPPONENTS  
SAY:

Instead of expanding the limits, benefits and eligible recipients of the crime victims' compensation fund, the state should use surplus funds for other purposes that also would help victims. For example, funds in excess of a fiscal year's payments could be appropriated to state agencies for victim-related services, such as programs for victims of domestic violence or sexual assault. Excess funds could be used to pay for a program to apprehend fugitive parole violators. These uses would expand the scope of the program for useful purposes while staying true to the intent of helping crime victims.

By expanding the persons who can receive benefits and the type of benefit that can be paid and raising the payment cap, there is a danger that awards could be limited for those who are currently eligible for payments. Persons receiving benefits should have to be closely related to victims and the changes in HB 3062 could go too far in broadening the scope of those who can get benefits.

NOTES:

The committee amendment would strike "and making an appropriation" from the bill's caption.

The companion bill, SB 1156 by Whitmire, has been reported favorably from the Senate Criminal Justice Committee.

Other bills relating to the crime victims' compensation fund include HB 2628 by Gallego, which would allow excess money in the crime victims compensation fund to be used for state agencies delivering or funding victim-related services or assistance, and SB 987 by Moncrief et al., which would allow the funds to be used for state agencies for programs that provide substantial and direct benefits, services or assistance for victims and their families, to fund the apprehension of parole violators and to fund a DNA testing program at the University of North Texas. HB 2628 was reported favorably by the House Appropriations Committee on April 17, and SB 987 passed the Senate on April 17 and has been referred to the House Appropriations Committee.