

SUBJECT: Attorney general oversight of the crime victims' compensation fund

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Keel, Ellis, Denny, Hodge, Talton
0 nays
4 absent — Riddle, Dunnam, P. Moreno, Pena

WITNESSES: For — Greg Shaw, Justice For All; Amy Wright, Women's Advocacy Project Inc.
Against — None
On — Annette Clay, Texas Association Against Sexual Assault; Barbra McLendon, Texas Council on Family Violence

BACKGROUND: The Crime Victims' Compensation Act, enacted in 1979 and codified in Code of Criminal Procedure, Ch. 56, established a compensation to victims of crime fund to reimburse victims of violent crimes for certain expenses that are not recoverable from other sources, such as insurance, workers' compensation, social security, Medicaid, or Medicare. The fund also provides money to operate the Crime Victims Institute, which develops policy recommendations for improving services to crime victims in Texas. Money in the fund comes primarily from court costs and fees imposed on criminal offenders. The attorney general administers the fund.

Texas Constitution, Art. 1, sec. 31 requires that money from the fund be spent only for delivering and funding victim-related compensation, services, or assistance and for emergency assistance for victims of episodes of mass violence. The fund reimburses eligible persons for expenses such as medical care, counseling, rehabilitation, funeral and child care, loss of earnings, and replacement costs for property seized as evidence. Persons other than crime victims are eligible to receive payments from the fund, including dependents, immediate family members, household members related to the victim, and

persons who legally assume the obligation or voluntarily pay certain expenses for the victim.

In 1997, the 75th Legislature enacted SB 987 by Moncrief, allowing the Legislature to appropriate excess money from the crime victims' fund to state agencies that deliver or fund victim-related services or assistance. Codified in Code of Criminal Procedure, sec. 56.541, it requires the attorney general to certify not later than December 15 of each even-numbered year the amount of excess money in the fund, based on anticipated deposits during the next state fiscal biennium, the anticipated amount of money needed during the next biennium to comply with statutory directives, and the anticipated amount that would remain unexpended at the end of the current state fiscal year.

DIGEST: HB 1042 would amend Code of Criminal Procedure, sec. 56.541, to specify that the Legislature may appropriate excess money in the crime victims' compensation fund only to the attorney general, not to other state agencies. The bill would direct the attorney general to use those funds only for the support of victim-related services and assistance.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: HB 1042 would return control of the crime victims' compensation fund solely to the attorney general, ensuring that the fund remained solvent and was used for its intended purpose. The California Crime Victims Compensation Fund already has been declared insolvent, and Texas must act now to avoid the same fate.

Due to expanded use of the fund since 1997, the attorney general has projected that it will become insolvent by 2008 or 2011. Since 1997, excess money from the fund has been appropriated to the Department of Human Services (DHS) for family violence services, to the Texas Department of Criminal Justice for the Victim Services Division and the Battery Intervention and Prevention Program (BIPP), to the Texas Department of Protective and Regulatory Services for foster care payments and adult protective services, and to the Office of Court Administration for foster care courts. In fiscal 2002-03, according to the attorney general, about 33 percent of the fund's revenues were budgeted to these agencies, which is unsustainable.

HB 1042 would ensure that the fund was used only for victims of crime, as the Legislature originally intended and the Texas Constitution requires. Since SB 987 was enacted, authorizing the Legislature to appropriate funds to state agencies for victim-related services, the fund has been used for programs not directed strictly toward crime victims. Using money from the fund for BIPP, which provides treatment and educational services to offenders referred by the courts for treatment, is inappropriate. While this program and others like it are worthwhile, they should not be funded at the expense of crime victims. If the Legislature does not take action to protect the fund's priorities, no one will benefit because it will become insolvent.

To address the changes brought about by HB 1042, the House Appropriations Committee could amend the existing budget rider appropriating excess money in the fund to separate state agencies and instead appropriate the excess money to the attorney general. Any delays that might result would be outweighed by the necessity of maintaining the integrity of the fund.

Consolidating the oversight of programs that receive excess money from the fund with the attorney general, rather than spreading out that oversight over multiple state agencies, makes good fiscal sense. Even if the attorney general had to hire additional staff, that still would be more cost-effective than having separate personnel at multiple agencies oversee these programs. Furthermore, consolidating oversight with the attorney general would help clarify what victim-related services are.

**OPPONENTS
SAY:**

HB 1042 might undercut the work of the Appropriations Committee, which already has approved funding for state agencies out of the excess money in the crime victims' fund. It is unclear whether state agencies would lose that funding under HB 1042 and be forced to reapply for funding from the attorney general. Organizations that provide services for victims, such as domestic violence shelters, would be hit hard by any delays that resulted from having to apply for funding all over again.

Some programs, such as BIPP, might lose funding altogether. Although this program is focused on helping offenders stop their abusive behavior and end the cycle of violence, it benefits victims who choose to stay in relationships with offenders. The Legislature, not the organizations, chose to fund BIPP through excess money in the fund, and if the attorney general chose to

discontinue this funding, there might not be an alternative in tight budget times.

HB 1042 would not address how programs currently administered by state agencies would be handled by the attorney general. For example, DHS currently receives fund money to contract for family violence services such as emergency shelter, hotlines, counseling, and other services that require agencies to monitor contracts with providers and set standards for service. It is unclear whether the attorney general would have the necessary staff to perform this function.

NOTES:

The companion bill, SB 1537 by Williams, has been referred to the Senate Criminal Justice Committee.

At least eight bills relating to the crime victims' fund have been filed this session. HB 170 by Keel, which would allow victims to be compensated for costs incurred in witnessing an execution, and CSHB 478 by Farrar, which would allow arson victims to receive money from the fund for re-location, were reported favorably from the House Criminal Jurisprudence Committee on March 11.