

BILL ANALYSIS

Senate Research Center

H.B. 3062
By: Hightower (Whitmire)
Criminal Justice
5-15-97
Committee Report (Amended)

DIGEST

Currently, the Texas Crime Victims' Compensation Fund serves as a financial safety net for victims of crime. The primary purpose of the fund is to reimburse victims for any out-of-pocket expenses incurred as a result of crime. The money in the fund comes directly from convicted offenders in the form of court costs and other fees. Administration of the fund is governed by Subchapter B, Code of Criminal Procedure, the Crime Victims' Compensation Act. During the 73rd Legislative Session, the Act was amended and amounts paid by offenders into the fund were increased. As a result, the monies in the fund have steadily increased over the past three years. These additional dollars have allowed the legislature to expand the program, thereby reaching a greater number of victims with more assistance. This legislation increases the type and amount of benefits available through the fund for victims of crime. Additionally, this bill broadens the scope of the Act by adding new categories of eligible applicants and authorized expenditures. Finally, H.B. 3062 includes policy changes related to the administration of the program.

PURPOSE

As proposed, H.B. 3062 revises Chapter 56B, Code of Criminal Procedure, the Crime Victims' Compensation Act, and makes an appropriation.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Articles 56.32, 56.34, 56.36, 56.37, 56.41, 56.42, 56.44-56.48, and 56.54, Chapter 56B, Code of Criminal Procedure, as follows:

Art. 56.32. DEFINITIONS. Redefines "claimant," "collateral source," "criminally injurious conduct," "dependent," "immediate family member," "pecuniary loss," and "victim." Deletes the provision regarding the persons who are not included as "victims."

Art. 56.34. COMPENSATION. Provides that the compensation to victims of crime fund and the compensation to victims of crime auxiliary fund are the payers of last resort.

Art. 56.36. APPLICATION. Requires an applicant for compensation to apply in writing on a form prescribed by the attorney general, rather than in a form that conforms substantially to that prescribed by the attorney general.

Art. 56.37. TIME FOR FILING. Requires a claimant or victim, except as otherwise provided by this article, to file an application not later than three years from the date, rather than the first anniversary, of the criminally injurious conduct. Requires the application, if the victim is a child, to be filed by a certain date. Deletes the provision stating the circumstances under which Subsection (a) does not apply to a claimant or victim. Provides that if a claimant or victim presents medically documented evidence of a mental incapacity incurred as a result of criminally injurious conduct and that reasonably prevented the claimant or victim from filing the application within the limitations period under Subsection (a), the period of the incapacity is not included. Deletes the previous provisions regarding the filing of an

application if the victim is a child.

Art. 56.41. APPROVAL OF CLAIM. Requires the attorney general to deny an application for compensation if the claimant or victim knowingly or intentionally submits false or forged information to the attorney general. Makes conforming changes.

Art. 56.42. LIMITS ON COMPENSATION. Prohibits awards payable to a victim and all other claimants sustaining pecuniary loss because of injury or death of that victim from exceeding \$50,000, rather than \$25,000, in the aggregate, with certain exceptions. Authorizes the attorney general to award an additional \$50,000, rather than \$25,000, in addition to the award payable under Subsection (a), under certain circumstances.

Art. 56.44. PAYMENTS. Authorizes the attorney general to make payments only to an individual who is a claimant or a victim, or to a provider on their behalf.

Art. 56.45. DENIAL OR REDUCTION OF AWARD. Authorizes the attorney general to deny or reduce an award otherwise payable to the extent that pecuniary loss is recouped from a collateral source, rather than from another person, including a collateral source.

Art. 56.46. REPORTING OF CRIME. Prohibits a claimant or victim from filing an application unless the victim reports the criminally injurious conduct within a reasonable period of time, but not so late as to interfere with or hamper the investigation and prosecution of the crime, rather than not later than 72 hours, after the conduct is committed, with certain exceptions.

Art. 56.47. RECONSIDERATION. Deletes the provision establishing that the right of reconsideration does not affect the finality of an attorney general decision for the purpose of judicial review.

Art. 56.48. JUDICIAL REVIEW. Authorizes a claimant or victim to file a general notice of dissatisfaction with a decision not later than the 40th, rather than 20th, day after the attorney general renders a final decision. Requires the claimant or victim, not later than the 40th, rather than the 20th, day after giving notice, to bring suit.

Art. 56.54. FUNDS. Authorizes the compensation to victims of crime fund to be used by the attorney general for the operation of the Crime Victims' Institute created at Chapter 412, Government Code. Requires an amount of money deposited to the credit of the compensation to victims of crime fund not to exceed one-quarter of the amount disbursed in the form of compensation payments to be carried forward into the next succeeding fiscal year and applied toward the amount listed in the next succeeding fiscal year's method of financing. Sets forth the terms by which the attorney general is authorized to retain any portion of the fund deposited during the fiscal year in excess of compensation payments for that fiscal year as an emergency reserve for the next fiscal year if the sums available are sufficient in a fiscal year to make all compensation payments. Makes conforming changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

(1) On page 5, line 12, insert "and necessary travel expenses" between "earnings" and "because".

(2) On page 5, line 20, insert "and participation in or attendance at any post conviction or post adjudication proceeding relating to criminally injurious conduct" after "conduct".