

**SUBJECT:** Reimbursing rape examinations from crime victims' compensation fund

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 9 ayes — Hinojosa, Dunnam, Keel, Talton, Garcia, Green, Kitchen, Martinez Fischer, Shields

0 nays

**WITNESSES:** For — Brenda Garison; Tom Mann, Texas Police Chiefs Association;  
*Registered but did not testify:* Hannah Riddering, Texas National Organization for Women; Linda Hunter, Hays-Caldwell Women's Center; William "Rusty" Hubbarth, Justice For All; Annette Clay, Texas Association Against Sexual Assault

Against — None

On — Drew T. Durham, Office of the Attorney General

**BACKGROUND:** Code of Criminal Procedure (CCP), art. 56.06 requires a law enforcement agency that requests a medical examination of a victim of alleged sexual assault for use in the investigation and prosecution of the assault to pay all costs of the examination.

Money in the crime victims' compensation fund comes from court costs paid by people convicted of felonies and of certain misdemeanors and violations of municipal ordinances. Under CCP, art. 56.54(b), the fund may be used only by the attorney general to pay for compensation to claimants or victims, for the operation of the Crime Victims' Institute, and for other administrative expenses, with certain exceptions. For each biennium, the Legislature may appropriate from the fund excess money certified by the attorney general to state agencies that deliver or fund victim-related services or assistance and for grants and contracts supporting such services, including nonprofit civil legal services. An amount not to exceed one-quarter of the amount spent on compensation payments in a fiscal year must be carried forward to the next fiscal year. The attorney general may retain any portion of the fund in excess of actual compensation payments as an emergency reserve for the next fiscal year, not to exceed \$10 million. This emergency reserve may be used only for compensation awards and to provide emergency relief stemming from an

act of mass violence or international terrorism occurring in Texas or resulting in injury or death of Texas residents outside the United States. The fund now contains the maximum allowable \$10 million. The Legislature also may appropriate money from the fund to administer the associate judge program under the Family Code.

**DIGEST:**

HB 131 would entitle a law enforcement agency to reimbursement, upon application to the attorney general, for the reasonable costs of a medical examination of a victim of alleged sexual assault for use in the investigation and prosecution of the assault. The bill would authorize the attorney general to use the crime victims' compensation fund to reimburse a law enforcement agency for the reasonable costs of such a medical examination.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS  
SAY:**

HB 131 would encourage law enforcement officials to conduct sexual assault examinations and could result in more rape convictions. Sometimes law enforcement agencies are reluctant to refer alleged sexual-assault victims for examinations because of the cost involved. By removing the financial burden from law enforcement agencies, the bill would encourage them to gather evidence critical to making successful cases. Law enforcement officials, medical providers, and victims' groups all support this bill.

By providing complete reimbursement for sexual-assault examinations, this bill could slow the attrition of Sexual Assault Nurse Examiners. These nurses specialize in assisting and examining victims of sexual assault and are trained to be sensitive to the victims' needs. Some health-care providers do not receive full compensation from law enforcement agencies for sexual-assault examinations because of a shortage of funds. Many nurses are leaving their chosen profession because of a lack of compensation, and Texas is facing a critical nursing shortage.

HB 131 would have no impact on state general revenue. The crime victims' compensation fund has more than enough money to pay for fiscal 2002-03 spending proposals and HB 131. The Office of the Attorney General estimates that the fund will end fiscal 2001 with a balance of \$252 million, not including the \$10 million set aside in its emergency reserve fund.

Proposed expenditures from the fund for fiscal 2002-03 total \$231.8 million, leaving a balance of more than \$20 million available, not including the additional revenue that will come into the fund during the biennium.

OPPONENTS  
SAY:

During a period of budget constraints, the Legislature should be wary of authorizing new spending programs, however worthy. The crime victims' compensation fund granted \$51.2 million to victims and organizations in fiscal 2000 and is estimated to spend \$59.5 million in fiscal 2001. Proposed spending from the fund would more than double in fiscal 2002-03, to about \$231.8 million, not including the impact from legislation such as HB 131 that proposes spending additional money from the fund. The increased spending proposals leave little room for error. Expanding eligibility for crime victims' grants would limit revenue available for other uses.

OTHER  
OPPONENTS  
SAY:

HB 131 should provide compensation directly to the hospitals and clinics that provide sexual-assault examinations rather than to law enforcement agencies. Law enforcement agencies sometimes deny payments after examinations, often because they misinterpret the victim's response as an indication that he or she was not actually sexually assaulted. Even when law enforcement agencies pay for the exams, they often provide only part of the cost. One Fort Worth hospital notes that law enforcement agencies reimburse it \$100 for every exam it performs at a cost to the hospital of \$400.

NOTES:

The fiscal note estimates that HB 131 would have no net impact on general revenue-related funds during fiscal 2002-03. The estimated cost to the crime victims' compensation fund account would total \$8 million in fiscal 2002-03 and \$23.3 million through fiscal 2006. That estimate is based on the assumption that reimbursement would be requested for all examinations at an average price of \$450, and that the number of requests would increase by 10 percent annually as more police departments participated.