

SUBJECT: Compensating certain crime victims for relocation and housing expenses

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Hinojosa, Dunnam, Keel, Garcia, Green, Kitchen, Martinez Fischer
0 nays
2 absent — Talton, Shields

WITNESSES: For — Sherry Boyles, Texas Association Against Sexual Assault; Bree Buchanan, Texas Council on Family Violence; Linda Hunter, Hays-Caldwell Women’s Center
Against — None
On — Drew T. Durham, Office of the Attorney General

BACKGROUND: The Crime Victims’ Compensation Act, enacted in 1979 (Code of Criminal Procedure, art. 56.31), established a compensation fund to reimburse victims of violent crimes for certain expenses that are not recoverable from other sources. Reimbursement can go toward expenses for medical care, counseling, funerals, child care, judicial proceedings, and relocation expenses. Money for the fund comes primarily from court fees paid by criminal offenders.

The 76th Legislature enacted HB 3255 by Gallego, which added art. 56.42(d) to the Code of Criminal Procedure to permit victims of domestic violence to receive a one-time compensation from the Crime Victims’ Compensation Fund of up to \$1,800 for housing rental expenses and up to \$2,000 for relocation expenses, including rental deposit, utility connections, moving expenses, vehicle mileage expenses, and, for out-of-state moves, transportation, lodging, and meals.

Family Code, art. 71.004(1) defines “family violence” as “an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault,

or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself.” The definition also includes physical or sexual abuse, or the threat of such abuse, by a member of a family or household toward a child of the family or household. “Domestic violence” is not defined under current Texas statutes.

DIGEST: CSHB 519 would amend Code of Criminal Procedure, art. 56.42(d) to change the definition of who would be eligible for reimbursement of housing and relocation expenses from “victims of domestic violence” to “victims of family violence or sexual assault.” It also would amend Code of Criminal Procedure, art. 56.32(a) to give family violence the meaning assigned by Family Code, art. 71.004(1).

This bill would take effect on September 1, 2001 and would apply to victims of an offense committed on or after that date.

SUPPORTERS SAY: Domestic violence is not defined in the Texas statutes, making it difficult for the Office of the Attorney General (OAG) to determine who qualifies for relocation reimbursement from the Crime Victims’ Compensation Fund. Using the Family Code definition of family violence would clarify who would be eligible for reimbursement and would allow the OAG to reimburse more victims.

For example, if a married couple were separated and living in different households, under current law the wife could not be compensated for relocation expenses if her husband abused her, because the Code of Criminal Procedure definition of “member of a household” requires that they be living in the same dwelling. The wife would qualify for compensation under the Family Code because its definition of “member of a household” includes persons who previously lived in the same dwelling.

One in three women and one in seven men in Texas will be sexually assaulted in their lifetimes. Fifty percent of sexual assaults occur in the victim’s home. Under current law, sexual assault victims are not eligible to receive compensation for relocation expenses unless they are assaulted by a household member. Also, victims who are sexually assaulted by someone other than a household member are not eligible to move into domestic

violence shelters. These victims often fear that the perpetrator will return to their homes to attack them again, and many times they do not have the money to move. CSHB 519 would enable sexual assault victims to relocate to a safe place.

The relatively small additional cost to the Crime Victims Compensation Fund of around \$400,000 per year would be more than covered by existing revenue to the fund. No general revenue would be involved, nor would the additional cost be counted against the constitutional spending limit. According to the Legislative Budget Board, total expenditures from the Compensation to Victims of Crime Fund No. 469 totaled \$35.4 million in fiscal 1999, \$37.6 million in fiscal 2000, and are budgeted at \$40.4 million for fiscal 2001. The unencumbered balance in the fund as of fiscal 2002 is estimated to be \$263.5 million, and the comptroller estimates that the fund will receive another \$75.9 million in revenue that year. The fund is constitutionally dedicated to programs related to crime victims, so the additional grants to crime victims authorized by the bill would be entirely appropriate.

OPPONENTS
SAY:

During a time of tight budget constraints, the Legislature should be wary of authorizing new spending programs, however worthy. The Compensation to Victims of Crime Fund likely will be used as a funding source in the fiscal 2002-2003 budget for necessary state services provided by agencies such as the Department of Human Services, the Texas Department of Criminal Justice, and the Texas Department of Protective and Regulatory Services (TDPRS). Expanding eligibility for crime victims grants would leave less revenue available for other uses.

NOTES:

The original version of the bill would have added subdivision (12) to Code of Criminal Procedure, art. 56.32(a) outlining the definition of family violence. The substitute changes subdivision (12) to state that family violence has the meaning assigned by Family Code, art. 71.004(1).

According to the bill's fiscal note, CSHB 519 would assist 272 sexual assault victims in fiscal 2002 and 317 additional victims per year in fiscal 2003-2006. The claim paid per victim is estimated to be \$1,277, resulting in a cost to the Compensation to Victims of Crime Account of \$347,344 for fiscal 2002 and \$404,809 per year in fiscal 2003-2006.

The companion bill, SB 169 by Zaffirini, has been referred to the Senate Criminal Justice Committee. SB 169 would add victims of sexual assault to the list of those qualifying for relocation expenses from the Crime Victims' Compensation Fund, but differs from CSHB 519 in that it would not replace victims of "domestic violence" with victims of "family violence."