

SUBJECT: Compensation to family members of a deceased victim

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Keel, Riddle, Ellis, Hodge, Pena, Talton

0 nays

3 absent — Denny, Dunnam, P. Moreno

WITNESSES: For — Verna Lee Carr, People Against Violent Crime

Against — None

BACKGROUND: The Crime Victims' Compensation Act, enacted in 1979 and codified in Code of Criminal Procedure, ch. 56, established a crime victims' compensation 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 and must award compensation for pecuniary loss arising from criminally injurious conduct if the attorney general is satisfied by a preponderance of the evidence that the requirements of the law are met.

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 burial expenses, 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. Specifically, immediate family members or

household members who require psychiatric care or counseling as a result of the crime are entitled to file a claim for compensation. Furthermore, pecuniary loss for which a person may be reimbursed includes actual loss of past earnings and anticipated loss of future earnings and necessary travel expenses because of participation in or attendance at investigative, prosecutorial, or judicial processes related to the criminally injurious conduct.

Code of Criminal Procedure, sec. 56.42, specifies some limits on compensation and authorizes the attorney general by rule to establish limitations on any other pecuniary loss.

DIGEST:

HB 1895 would permit an immediate family or household member of a victim who, as a result of criminally injurious conduct, incurred expenses for traveling to and attending the victim's funeral or suffered a loss of wages from bereavement leave taken in connection with the victim's death, to file a claim for compensation from the crime victims' compensation fund. The bill also would include within the definition of pecuniary loss funeral and burial expenses, including, for an immediate family or household member of the victim, the necessary expenses of traveling to and attending the funeral, as well as bereavement leave of not more than 10 work days for an immediate family or household member.

The bill would amend Code of Criminal Procedure, art. 56.42, to specify that the attorney general could by rule establish limitations on pecuniary loss incurred as a result of a claimant's travel to and attendance of a deceased victim's funeral. It would specify that an immediate family or household member of a deceased victim could not receive more than \$1,000 in lost wages as a result of bereavement leave.

The bill would take effect on September 1, 2003.

**SUPPORTERS
SAY:**

Immediate family and household members of deceased crime victims often suffer pecuniary losses of wages and travel expenses as a direct result of the sudden and unexpected death of their loved one due to violent crime. Most close survivors of a victim are not in a position to absorb this unexpected financial loss, and HB 1895 would provide limited assistance to help them weather this storm.

Not all employers offer a paid bereavement leave for their employees, and bereavement leave is crucial for the health and well-being of close survivors of a victim. The sudden emotional trauma makes it impossible for most close survivors to perform their job duties adequately. Furthermore, survivors require time to make funeral and burial arrangements, attend the funeral, cooperate with law enforcement, and deal with the legal and business matters following the death of a loved one. It is important that survivors be afforded the time to grieve the loss of a loved one, rather than having to return to work immediately for financial reasons. Without adequate time to grieve and address the trauma of their losses, family and household members could suffer long lasting and harmful emotional effects.

HB 1895 logically would extend current law to allow for compensation of certain travel expenses and lost wages. When a witness must travel or miss work to attend court proceedings, those expenses already are covered by the fund. The attorney general has projected that the fund might become insolvent only because it has been used for programs not directed strictly toward crime victims, such as treatment and educational services for offenders referred by the courts for treatment. HB 1895 would use the fund as it was intended, for direct services to victims.

**OPPONENTS
SAY:**

Due to expanded use of the fund since 1997, the attorney general has projected that it will become insolvent by 2008 or 2011. According to the Legislative Budget Board (LBB), the probable cost to the fund of HB 1895 would be in excess of half a million dollars per year through fiscal 2008. While the bill's goal of assisting survivors of victims of violent crime is worthy, now is not the time to expand the use of the fund. No one would benefit if the fund became insolvent.

NOTES:

The LBB projects a probable cost of \$581,334 to the fund for each fiscal year between now and 2008.

A related bill, HB 1042 by Talton, passed the House on April 8 and has been referred to the Senate Criminal Justice Committee. It would require the Legislature to appropriate excess money in the fund only to the attorney general and would direct the attorney general to use those funds only for the support of victim-related services and assistance.

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 relocation, were reported favorably by the Criminal Jurisprudence Committee on March 11.