

- SUBJECT:** Making crime victim information held by attorney general confidential
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 6 ayes — Pena, Vaught, Riddle, Hodge, Pierson, Talton
0 nays
3 absent — Escobar, Mallory Caraway, Moreno
- WITNESSES:** For — (*Registered, but did not testify:* Torie Camp, Texas Association Against Sexual Assault; David Gonzalez, Texas Criminal Defense Lawyers Association; James Jones, Houston Police Department; Andy Kahan, Mayor's Crime Victim's Office; Laura Wolf, Texas Council on Family Violence; Daphne Corder)
Against — Ken Whalen, Texas Daily Newspapers Association
On — Gene McCleskey, Karen Rabon, Office of the Attorney General
- BACKGROUND:** Government Code, sec. 552.132 allows crime victims to elect whether to allow public access to their personal information held by the crime victim's compensation division of the Attorney General's Office. The division administers the crime victims' compensation fund, which awards grants to victims of crimes for certain out-of-pocket expenses incurred because of the crime.

Crime victims may elect whether to allow public access to their name, social security number, address, telephone number, or any other identifying information. The election must be made in writing and filed with the crime victims' compensation division within three years of the date the victim filed an application for compensation. If a victim receives money from the fund, the name of the victim and the amount awarded are public information.
- DIGEST:** HB 1042 would make confidential certain personal information of victims or claimants who apply to the attorney general's crime victims' compensation fund, without requiring the victims or claimants to elect to keep that information from disclosure. It also would make confidential the

personal information of claimants to the fund who may not be the actual victim.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 1042 is necessary to ensure that crime victims – and those working on their behalf – are not victimized again by having their private identifying information made public and potentially used to harm them further.

While current law allows crime victims to opt to restrict access to their personal information held by the Attorney General's Office, it makes no such provision for the information of claimants, most often a parent or dependent of a deceased victim, who are working on behalf of the victim. Because claimants' information can be used to identify victims or to bring harm to the claimant, it should have the same protections as victims' information.

Under attorney general rulings (OR2005-00799 and OR2004-8639), during the three years following the filing of a victim's application to the crime victims' fund, much of the victim's personal information and information about immediate family members who are claimants is protected from disclosure. However, if victims want the information to remain confidential after that three-year period, they must take action to keep their information private. While the vast majority of victims choose this option, many who do not choose this do so in error. Some of these victims misread the form that gives them the option of keeping their information private and others forget to return the form to the Attorney General's Office. Following up on these forms is an administrative burden for both the victim and the Attorney General's Office.

HB 1042 would address these problems by making the information automatically confidential after the three-year period, rather than requiring action to prevent disclosure. Shifting this presumption would ensure that all victims' private information remained private without requiring action by the victim. Victims and claimants give their personal information to the attorney general with the expectation that it will be kept private, and HB 1042 would allow the state to meet that reasonable expectation.

Public information laws were designed to make information about the government and its actions public, not to ensure access to private information about individuals. Attorneys for offenders who may want

information held by the crime victims' compensation fund could ask a judge for access to that information, just as they do now.

Public accountability of the fund would continue under the existing law, which makes the amount of awards from the fund and the names of people getting awards public information. This ensures that the public, the media, and others can track the fund and have access to statistics, such as the amount awarded by county. Because most victims opt for confidentiality now and because the information is kept from disclosure for the three-year period, HB 1042 would not have a significant impact on the ability of the news media to contact victims. As always, victims who want to talk to the news media are free to contact reporters, and reporters have access to other public information about a case.

**OPPONENTS
SAY:**

Texas should not shift the presumption that certain information held by the state government is public to a requirement that it be confidential. This would violate the spirit of the Texas Public Information Act, which makes information collected by governmental bodies presumed to be available to the public. Access to public information helps ensure accountability and transparency in government.

Keeping the information of all people involved with the crime victims' compensation fund confidential for long periods could inhibit the press from monitoring the fund, from verifying victims' information, and from approaching victims to determine if they want to tell their stories to the news media. Many victims want to talk with the media as a part of the healing process but do not know how to go about it, and HB 1042 could make this more difficult.

NOTES:

The companion bill, SB 636 by Hegar, has been referred to the Senate Criminal Justice Committee.