

By: Longoria, Guerra

H.B. No. 692

A BILL TO BE ENTITLED

AN ACT

relating to compensation under the Crime Victims' Compensation Act for damages to real property suffered as a result of a person evading arrest or detention.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Articles 56.32(a)(4), (9), and (11), Code of Criminal Procedure, are amended to read as follows:

(4) "Criminally injurious conduct" means conduct that:

(A) occurs or is attempted;

(B) poses a substantial threat of personal injury or death;

(C) is punishable by fine, imprisonment, or death, or would be punishable by fine, imprisonment, or death if the person engaging in the conduct possessed capacity to commit the conduct; and

(D) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water vehicle, unless the conduct is:

(i) intended to cause personal injury or death;

(ii) ~~[or the conduct is]~~ in violation of Section 545.157 or 545.401, Transportation Code, if the conduct ~~[and]~~ results in bodily injury or death;

1 (iii) [~~or is~~] in violation of Section
2 [550.021](#), Transportation Code; or

3 (iv) in violation of [~~or~~] one or more of
4 the following sections of the Penal Code:

5 (a) [~~(i)~~] Section [19.04](#)
6 (manslaughter);

7 (b) [~~(ii)~~] Section [19.05](#) (criminally
8 negligent homicide);

9 (c) [~~(iii)~~] Section [22.02](#) (aggravated
10 assault);

11 (d) [~~(iv)~~] Section [22.05](#) (deadly
12 conduct);

13 (e) Section [38.04](#) (evading arrest or
14 detention), if the conduct involved the use of a vehicle as defined
15 by that section;

16 (f) [~~(v)~~] Section [49.04](#) (driving
17 while intoxicated);

18 (g) [~~(vi)~~] Section [49.05](#) (flying
19 while intoxicated);

20 (h) [~~(vii)~~] Section [49.06](#) (boating
21 while intoxicated);

22 (i) [~~(viii)~~] Section [49.07](#)
23 (intoxication assault); or

24 (j) [~~(ix)~~] Section [49.08](#)
25 (intoxication manslaughter).

26 (9) "Pecuniary loss" means the amount of expense
27 reasonably and necessarily incurred as a result of:

(A) personal injury or death for:

(i) [~~(A)~~] medical, hospital, nursing, or psychiatric care or counseling, or physical therapy;

(ii) [~~(B)~~] actual loss of past earnings and anticipated loss of future earnings and necessary travel expenses because of:

(a) [~~(i)~~] a disability resulting from the personal injury;

(b) [~~(ii)~~] the receipt of medically indicated services related to the disability resulting from the personal injury; or

(c) [~~(iii)~~] participation in or attendance at investigative, prosecutorial, or judicial processes related to the criminally injurious conduct and participation in or attendance at any postconviction or postadjudication proceeding relating to criminally injurious conduct;

(iii) [~~(C)~~] care of a child or dependent;

(iv) [~~(D)~~] funeral and burial expenses, including, for an immediate family member or household member of the victim, the necessary expenses of traveling to and attending the funeral;

(v) [~~(E)~~] loss of support to a dependent, consistent with Article 56.41(b)(5);

(vi) [~~(F)~~] reasonable and necessary costs of cleaning the crime scene;

(vii) [~~(G)~~] reasonable replacement costs for clothing, bedding, or property of the victim seized as evidence

or rendered unusable as a result of the criminal investigation;

(viii) ~~[(H)]~~ reasonable and necessary costs, as provided by Article 56.42(d), incurred by a victim of family violence or a victim of sexual assault who is assaulted in the victim's place of residence for relocation and housing rental assistance payments;

(ix) ~~[(I)]~~ for an immediate family member or household member of a deceased victim, bereavement leave of not more than 10 work days; and

(x) ~~[(J)]~~ reasonable and necessary costs of traveling to and from a place of execution for the purpose of witnessing the execution, including one night's lodging near the place at which the execution is conducted; and

(B) damage to the victim's real property that is caused by criminally injurious conduct described by Subdivision (4)(D)(iv)(e).

(11) "Victim" means~~[, except as provided by Subsection (c)]~~:

(A) an individual who:

(i) suffers personal injury or death as a result of criminally injurious conduct or as a result of actions taken by the individual as an intervenor, if the conduct or actions occurred in this state; and

(ii) is a resident of this state, another state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a possession or territory of the United States;

(B) an individual who:

(i) suffers personal injury or death as a result of criminally injurious conduct or as a result of actions taken by the individual as an intervenor, if the conduct or actions occurred in a state or country that does not have a crime victims' compensation program that meets the requirements of Section 1403(b), ~~[Crime]~~ Victims of Crime [Compensation] Act of 1984 (42 U.S.C. Section 10602(b));

(ii) is a resident of this state; and

(iii) would be entitled to compensation under this subchapter if the criminally injurious conduct or actions had occurred in this state; ~~[or]~~

(C) an individual who:

(i) suffers personal injury or death as a result of criminally injurious conduct caused by an act of international terrorism as defined by 18 U.S.C. Section 2331 committed outside of the United States; and

(ii) is a resident of this state; or

(D) an individual who, as a result of criminally injurious conduct described by Subdivision (4)(D)(iv)(e), suffers damages to real property located in this state and owned by the individual.

SECTION 2. Article ~~56.34~~ (b), Code of Criminal Procedure, is amended to read as follows:

(b) The attorney general~~[7]~~ shall establish whether, as a direct result of criminally injurious conduct, a claimant or victim suffered:

1 (1) personal injury or death that resulted in a
2 pecuniary loss for which the claimant or victim is not compensated
3 from a collateral source; or

4 (2) damages to real property, if the criminally
5 injuriously conduct is conduct described by Article
6 56.32(a)(4)(D)(iv)(e).

7 SECTION 3. Article 56.36(b), Code of Criminal Procedure, is
8 amended to read as follows:

9 (b) An application must be verified and must contain:

10 (1) the date on which the criminally injurious conduct
11 occurred;

12 (2) a description of the nature and circumstances of
13 the criminally injurious conduct;

14 (3) a complete financial statement, including:

15 (A) the cost of medical care or burial expenses
16 and the loss of wages or support the claimant or victim has incurred
17 or will incur; ~~and~~

18 (B) the damages to real property suffered by the
19 claimant or victim as a result of criminally injurious conduct
20 described by Article 56.32(a)(4)(D)(iv)(e); and

21 (C) the extent to which the claimant or victim
22 has been indemnified from a collateral source for the [these]
23 expenses or damages described by Paragraphs (A) and (B) [from a
24 ~~collateral source]~~];

25 (4) if appropriate, a statement indicating the extent
26 of a disability resulting from the injury incurred;

27 (5) an authorization permitting the attorney general

1 to verify the contents of the application; and

2 (6) other information the attorney general requires.

3 SECTION 4. Article 56.42, Code of Criminal Procedure, is
4 amended by adding Subsection (b-1) to read as follows:

5 (b-1) Awards payable to a victim and all other claimants
6 sustaining pecuniary loss because of damages to real property as a
7 result of criminally injurious conduct described by Article
8 56.32(a)(4)(D)(iv)(e) may not exceed \$50,000 in the aggregate.

9 SECTION 5. Article 56.48(a), Code of Criminal Procedure, is
10 amended to read as follows:

11 (a) Not later than the 40th day after the attorney general
12 renders a final decision, a claimant or victim may file with the
13 attorney general a notice of dissatisfaction with the decision.
14 Not later than the 40th day after the claimant or victim gives
15 notice, the claimant or victim shall bring suit in the district
16 court having jurisdiction in the county in which:

17 (1) the injury or death occurred;

18 (2) the victim resided at the time the injury or death
19 occurred; ~~or~~

20 (3) if the victim resided out of state at the time of
21 the injury or death, in the county where the injury or death
22 occurred or in a district court of Travis County; or

23 (4) the real property is located, if the criminally
24 injurious conduct is described by Article 56.32(a)(4)(D)(iv)(e)
25 and resulted in pecuniary loss with respect to the property.

26 SECTION 6. The change in law made by this Act applies only
27 to a victim of a criminal offense committed or a violation that

1 occurs on or after the effective date of this Act. A criminal
2 offense committed or a violation that occurs before the effective
3 date of this Act is governed by the law in effect on the date the
4 offense was committed or the violation occurred, and the former law
5 is continued in effect for that purpose. For purposes of this
6 section, a criminal offense was committed or a violation occurred
7 before the effective date of this Act if any element of the offense
8 or violation occurred before that date.

9 SECTION 7. This Act takes effect September 1, 2015.