

BILL ANALYSIS

C.S.H.B. 2387
By: Herrero
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the retention of sensitive information of crime victims, in addition to broadened discovery practices, has created an unintended vulnerability for participants of the crime victims' compensation program. C.S.H.B. 2387 seeks to prevent certain personal information provided by program participants from being shared with offenders and third parties by prohibiting the release or disclosure of the information except in limited circumstances.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2387 amends the Code of Criminal Procedure to exempt an application for compensation under the Crime Victims' Compensation Act and any information, document, summary, or other record provided to or received, maintained, or created by the attorney general under the act from disclosure under state public information law and from disclosure, discovery, subpoena, or other means of legal compulsion for release. The bill prohibits the attorney general from releasing or disclosing such an application or any such information, document, summary, or other record, except under certain conditions as specified by the bill. The bill requires the attorney general, if responding to a subpoena that is issued in a criminal proceeding and that requests an application for such compensation, to release only the victim's completed application form after redacting certain confidential information and establishes that such release of a victim's completed application form does not affect the authority of the court to order the release or disclosure of additional information.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2387 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter B, Chapter 56, Code of Criminal Procedure, is amended by adding Article 56.65 to read as follows:

Art. 56.65. DISCLOSURE AND USE OF INFORMATION.

(a) This article does not apply to information made confidential by law.

(b) An application for compensation under this subchapter and any information, document, summary, or other record provided to or received, maintained, or created by the attorney general under this subchapter is:

(1) except as provided by Section 552.132(c), Government Code, not subject to disclosure under Chapter 552 of that code; and

(2) except as provided by Subsection (c), not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release.

(c) The attorney general may not release or disclose an application for compensation under this subchapter, or any information, document, summary, or other record provided to or received, maintained, or created by the attorney general under this subchapter, except:

(1) by court order for good cause shown, if the order includes a finding that the information is not available from any other source;

(2) with the consent of:

(A) the claimant or victim; or

(B) the person that provided the information to the attorney general;

(3) to an employee or other person under the direction of the attorney general;

(4) to another crime victims' compensation program that meets the requirements of 42 U.S.C. Section 10602(b);

(5) to a person authorized by the attorney general to receive the information in order to:

(A) conduct an audit as required by state or federal law;

(B) provide a review or examination under Article 56.38, 56.385, or 56.39 for the purpose of determining the appropriateness of an award under this subchapter;

(C) prevent, deter, or punish fraud related

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 56, Code of Criminal Procedure, is amended by adding Article 56.65 to read as follows:

Art. 56.65. DISCLOSURE AND USE OF INFORMATION.

(a). Same as introduced version.

(b). Same as introduced version.

(c) The attorney general may not release or disclose an application for compensation under this subchapter, or any information, document, summary, or other record provided to or received, maintained, or created by the attorney general under this subchapter, except:

(1) by court order for good cause shown, if the order includes a finding that the information is not available from any other source;

(2) with the consent of:

(A) the claimant or victim; or

(B) the person that provided the information to the attorney general;

(3) to an employee or other person under the direction of the attorney general;

(4) to another crime victims' compensation program that meets the requirements of 42 U.S.C. Section 10602(b);

(5) to a person authorized by the attorney general to receive the information in order to:

(A) conduct an audit as required by state or federal law;

(B) provide a review or examination under Article 56.38, 56.385, or 56.39 or under another provision of this subchapter for the purpose of determining the appropriateness of an award under this subchapter;

(C) prevent, deter, or punish fraud related

to this subchapter; or
(D) assert subrogation or restitution rights;
or
(6) as the attorney general determines
necessary to enforce this chapter, including
presenting the application, information,
document, summary, or record in court.

No equivalent provision.

SECTION 2. The change in law made by this Act applies only to a request for information that is received on or after the effective date of this Act. A request for information that was received before the effective date of this Act is governed by the law in effect on the date the request was received, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

to this subchapter; or
(D) assert subrogation or restitution rights;

(6) as the attorney general determines
necessary to enforce this chapter, including
presenting the application, information,
document, summary, or record in court; or
(7) in response to a subpoena that is issued
in a criminal proceeding and that requests an
application for compensation under this
subchapter, subject to Subsection (d).

(d) If responding to a subpoena described
by Subsection (c)(7), the attorney general
shall release only the victim's completed
application form as described by Article
56.36(a) after redacting any confidential
information described by Section
552.132(b), Government Code. The release
of a victim's completed application form
under this subsection does not affect the
authority of the court to order the release or
disclosure of additional information under
this article.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.