

By: Longoria

H.B. No. 535

A BILL TO BE ENTITLED

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

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

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

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

10 (A) occurs or is attempted;

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

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

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

20 (i) intended to cause personal injury or
21 death;

22 (ii) [~~or the conduct is~~] in violation of
23 Section 545.157 or 545.401, Transportation Code, if the conduct
24 [~~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:

1 (A) personal injury or death for:

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

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

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

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

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

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

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

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

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

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

1 or rendered unusable as a result of the criminal investigation;

2 (viii) [~~(H)~~] reasonable and necessary
3 costs for relocation and housing rental assistance payments as
4 provided by Article 56.42(d);

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

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

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

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

17 (A) an individual who:

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

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

26 (B) an individual who:

27 (i) suffers personal injury or death as a

1 result of criminally injurious conduct or as a result of actions
2 taken by the individual as an intervenor, if the conduct or actions
3 occurred in a state or country that does not have a crime victims'
4 compensation program that meets the requirements of Section
5 1403(b), [~~Crime~~ Victims of Crime [~~Compensation~~] Act of 1984 (42
6 U.S.C. Section 10602(b));

7 (ii) is a resident of this state; and

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

11 (C) an individual who:

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

16 (ii) is a resident of this state; or

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

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

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

26 (1) personal injury or death that resulted in a
27 pecuniary loss for which the claimant or victim is not compensated

1 from a collateral source; or

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

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

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

8 (1) the date on which the criminally injurious conduct
9 occurred;

10 (2) a description of the nature and circumstances of
11 the criminally injurious conduct;

12 (3) a complete financial statement, including:

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

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

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

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

25 (5) an authorization permitting the attorney general
26 to verify the contents of the application; and

27 (6) other information the attorney general requires.

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

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

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

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

15 (1) the injury or death occurred;

16 (2) the victim resided at the time the injury or death
17 occurred; ~~or~~

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

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

24 SECTION 6. The change in law made by this Act applies only
25 to a victim of a criminal offense committed or a violation that
26 occurs on or after the effective date of this Act. A criminal
27 offense committed or a violation that occurs before the effective

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

7 SECTION 7. This Act takes effect September 1, 2017.