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3 WARD SUBSTITUTE FOR HB180, AS ENGROSSED  
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8 SYNOPSIS: Under existing law, individuals who are  
9 convicted of a felony may owe compensation to the  
10 victim of the crime under certain conditions.

11 Existing law also provides that when an  
12 individual who is indicted for or convicted of a  
13 felony in this state is paid or, by contract, is  
14 owed payment for the reenactment of the commission  
15 of the felony, by way of a movie, book, magazine  
16 division, or for the expression of the individual's  
17 thoughts, memoirs, or opinions regarding the  
18 commission of the felony, the money shall be  
19 deposited into an escrow account for the benefit of  
20 the victims of the crime.

21 This bill would repeal the existing law and  
22 would establish a procedure for collecting funds,  
23 other than child support and other exempt income,  
24 and property paid to a person convicted of a  
25 specified crime.

26 The bill would authorize a crime victim or  
27 the Securities Commission, on behalf of the crime

1 victim, to apply for civil compensation and other  
2 remedies relating to the crime.

3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT

7  
8 Relating to crime victims' compensation; to repeal  
9 Division 2 (commencing with Section 41-9-80) and to add  
10 Division 2A (commencing with Section 41-9-80.1) to Article 4  
11 of Chapter 9 of the Code of Alabama 1975; to establish Lisa's  
12 Law; to provide a procedure for collecting certain funds and  
13 property paid to or intended to be paid to an individual  
14 convicted of certain crimes; to provide notice requirements to  
15 the payor of the funds or property; to authorize certain crime  
16 victims or the Securities Commission, on behalf of the crime  
17 victims, to apply for civil compensation and other civil  
18 remedies arising from the commission of the crime.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Division 2 (commencing with Section  
21 41-9-80) of Article 4 of Chapter 9 of Title 41 of the Code of  
22 Alabama 1975, is repealed.

23 Section 2. Division 2A (commencing with Section  
24 41-9-80.1) is added to Article 4 of Chapter 9 of Title 41 of  
25 the Code of Alabama 1975, to read as follows:

26 Division 2A. Victims of Crimes.

27 §41-9-80.1.

1                   This division shall be known and may be cited as  
2 Lisa's Law.

3                   §41-9-80.2.

4                   As used in this division, the following terms shall  
5 have the following meanings:

6                   (1) CONVICTED INDIVIDUAL. An individual convicted of  
7 a specified crime or a representative of the individual.

8                   (2) EARNED INCOME. Income derived from an  
9 individual's own labor or active participation in a business.  
10 The term does not include income from dividends or  
11 investments.

12                   (3) FUNDS OF A CONVICTED INDIVIDUAL. Funds and  
13 property received from any source by a convicted individual.  
14 The term includes funds that a superintendent, sheriff,  
15 municipal official, or other correctional official receives on  
16 behalf of a convicted individual and deposits into the  
17 individual's inmate or prisoner account to the credit of the  
18 individual. The term does not include funds from child support  
19 payments and earned income, except any income defined as  
20 profits from a crime under subdivision (5).

21                   (4) PERSON. An individual, corporation, estate,  
22 partnership, association, or other legal entity, or  
23 representative of such. The term does not include the state, a  
24 political subdivision of the state, or an individual who is a  
25 superintendent, sheriff, municipal official, or other  
26 correctional official required to give notice by this  
27 division.

1 (5) PROFITS FROM A CRIME. Any of the following:

2 a. Property or income of a convicted individual that  
3 the individual obtained or generated from the commission of  
4 the crime of which the individual was convicted.

5 b. Property or income that a convicted individual  
6 obtained or generated from the sale, conversion, or exchange  
7 of proceeds of a specified crime of which the individual was  
8 convicted.

9 c. Property or income generated as a result of  
10 having committed a specified crime of which a convicted  
11 individual was convicted, including through the use of unique  
12 knowledge obtained during the commission of, or in preparation  
13 for, the commission of a specified crime, as well as any  
14 property or income obtained or generated from the sale,  
15 conversion, or exchange of the property.

16 d. Property obtained by or income generated from the  
17 reenactment of a specified crime, by way of a movie, book,  
18 magazine, radio, or television presentation, live  
19 entertainment, or from any other written or verbal expression  
20 of the individual's thoughts, feelings, opinions, or emotions  
21 regarding the crime.

22 (6) REPRESENTATIVE. A person who represents or  
23 stands in the place of another person, including, but not  
24 limited to, an agent, assignee, attorney, guardian, committee,  
25 conservator, partner, receiver, administrator, executor or  
26 heir of another person, third-party beneficiary, or parent of  
27 a minor.

1                   (7) SECURITIES COMMISSION. The Alabama Securities  
2 Commission.

3                   (8) SPECIFIED CRIME. A felony offense involving  
4 moral turpitude, as described in Section 17-3-30.1, where the  
5 victim was a resident of this state at the time of the offense  
6 or the act or acts constituting the offense occurred in whole  
7 or in part of this state.

8                   (9) VICTIM OF A CRIME. Any of the following:

9                   a. A victim of a specified crime.

10                  b. If the victim of a specified crime is deceased:

11                   1. The surviving spouse of the victim.

12                   2. If there is no surviving spouse, the next  
13 surviving person or surviving group of people in the order of  
14 intestate succession as listed in Section 43-8-42.

15                   §41-9-80.3.

16                   (a) A person that knowingly contracts for, pays for,  
17 or agrees to pay to a convicted individual profits from the  
18 crime or to the representative of the individual, shall give  
19 written notice to the Securities Commission of the payment or  
20 obligation to pay as soon as practicable after discovering  
21 that the payment or intended payment constitutes profits from  
22 a crime or funds of a convicted individual.

23                   (b) (1) A superintendent, sheriff, municipal  
24 official, or other correctional official shall also give  
25 written notice to the Securities Commission of any payment or  
26 obligation to pay subject to the notice requirements of  
27 subsection (a) if he or she receives or will receive funds,

1 the combined or aggregate value of which exceeds five thousand  
2 dollars (\$5,000), on behalf of a convicted individual who is  
3 serving a sentence with the Alabama Department of Corrections  
4 or is otherwise confined at a local correctional facility and  
5 deposits or will deposit the funds into an inmate or prisoner  
6 account to the credit of the individual.

7 (2) Whenever the state or a political subdivision of  
8 the state makes a payment or has an obligation to pay funds of  
9 a convicted individual and the value, combined value, or  
10 aggregate value of the funds exceeds or will exceed five  
11 thousand dollars (\$5,000), the state or political subdivision  
12 of the state shall also give written notice to the Securities  
13 Commission.

14 (3) In all other instances where the payment or  
15 obligation to pay involves funds of a convicted individual and  
16 the value, combined value, or aggregate value of the funds  
17 exceeds or will exceed five thousand dollars (\$5,000), the  
18 convicted individual who receives or will receive the funds,  
19 or the representative of the individual, shall give written  
20 notice to the Securities Commission.

21 §41-9-80.4.

22 (a) Notwithstanding any other provision of law to  
23 the contrary, a victim of a crime may bring a civil action in  
24 a court of competent jurisdiction to recover restitution or  
25 money damages, or both, from the convicted individual who  
26 committed the crime or the individual's representative.

1 (b) Notwithstanding any other provision of law to  
2 the contrary, a judgment obtained pursuant to this section is  
3 not subject to execution or enforcement against the first one  
4 thousand dollars (\$1,000) deposited into an inmate or prisoner  
5 account to the credit of an inmate.

6 (c) In actions seeking relief pursuant to subsection  
7 (a), the claim must not be considered as having accrued until  
8 (1) the actual discovery of the profits or funds, or (2)  
9 actual notice received from or published by the Securities  
10 Commission of the discovery of the profits or funds, whichever  
11 occurs first, after which a victim of a crime must have five  
12 years within which to prosecute the action.

13 §41-9-80.5.

14 Upon filing an action pursuant to subsection (a) of  
15 Section 41-9-80.4, the victim of a crime shall give notice to  
16 the Securities Commission of the filing by delivering a copy  
17 of the summons and complaint to the Securities Commission.

18 §41-9-80.6.

19 (a) The Securities Commission, acting on behalf of a  
20 victim of a crime, may apply for any and all provisional  
21 remedies that are also otherwise available to the victim.

22 (b) The provisional remedies of attachment,  
23 injunction, receivership, and notice of pendency available to  
24 the victim of the crime under existing law and the Alabama  
25 Rules of Civil Procedure shall also be available to the  
26 Securities Commission in all actions under this division.

1 (c) Upon the filing of a motion for a provisional  
2 remedy, the moving party shall state whether any other  
3 provisional remedy has previously been sought in the same  
4 action against the same defendant. The court may require the  
5 moving party to elect between those remedies to which it would  
6 otherwise be entitled.

7 §41-9-80.7.

8 (a) If a person knowingly and willfully fails to  
9 give notice in violation of Section 41-9-80.3, the Securities  
10 Commission, after notice and hearing pursuant to the Alabama  
11 Administrative Procedure Act, may impose an assessment of up  
12 to the amount of the payment or obligation to pay and a civil  
13 penalty of up to one thousand dollars (\$1,000) or ten percent  
14 of the payment or obligation to pay, whichever is greater.

15 (b) (1) If a person fails to pay the assessment and  
16 civil penalty imposed by subsection (a), the assessment and  
17 civil penalty may be recovered from the person by an action  
18 brought by the Securities Commission in any court of competent  
19 jurisdiction.

20 (2) Notwithstanding any provision of law to the  
21 contrary, an alleged failure by a convicted individual to give  
22 notice under Section 41-9-80.3 may not result in proceedings  
23 for an alleged violation of the conditions of probation,  
24 parole, conditional release, post release supervision, or  
25 supervised release, unless all of the following occur:

26 a. A victim of a crime makes one or more claims  
27 pursuant to this division.

1           b. The Securities Commission imposes an assessment  
2 or penalty, or both, against the convicted individual pursuant  
3 to this division.

4           c. The convicted individual fails to pay the total  
5 amount of the assessment or penalty within 60 days of the  
6 imposition of the assessment or penalty.

7           (c) The Securities Commission may recover, from any  
8 assessment or civil penalty imposed under subsection (a), the  
9 actual cost of investigation, negotiation, settlement, or  
10 prosecution of the violation for which penalty has been  
11 imposed. The expenses may include personnel costs, travel, per  
12 diem expenses, and any cost associated with retaining  
13 non-employee personnel to assist in collection or prosecution  
14 of the action.

15           §41-9-80.8.

16           (a) The Securities Commission, or any person  
17 designated by the Securities Commission, may do any of the  
18 following:

19           (1) Make public or private investigations, within or  
20 outside of the state, as deemed necessary to aid in the  
21 enforcement of this division.

22           (2) Require or permit any person to file a statement  
23 in writing, under oath or otherwise, as the Security  
24 Commission may determine, as to all facts and circumstances  
25 relating to the matter being investigated.

26           (3) Publish information concerning a violation of  
27 this division.

1           (4) Administer oaths and affirmations, subpoena  
2 witnesses, compel attendance, take evidence, and require the  
3 production of any books, papers, correspondence, memoranda,  
4 agreements, or other documents or records, in whatever form  
5 they may exist, that the Securities Commission deems relevant  
6 or material to an investigation.

7           (b) If a person fails to comply with a subpoena  
8 issued or refuses to appear, the Securities Commission may  
9 seek enforcement of the subpoena or order to appear in a court  
10 of competent jurisdiction.

11           §41-9-80.9.

12           The Securities Commission may retain any person or  
13 entity as required to implement and administer this division.

14           Section 3. This act shall become effective  
15 immediately upon its passage and approval by the Governor, or  
16 upon its otherwise becoming law.