

1 SB17
2 196305-2
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 01/25/2019

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Division 2 (commencing with Section
26 41-9-80) of Article 4 of Chapter 9 of Title 41 of the Code of
27 Alabama 1975, is repealed.

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

4 Division 2A. Victims of Crimes.

5 §41-9-80.1.

6 This division shall be known and may be cited as
7 Lisa's Law.

8 §41-9-80.2.

9 As used in this division, the following terms shall
10 have the following meanings:

11 (1) BOARD. The Board of Adjustment.

12 (2) CONVICTED INDIVIDUAL. An individual convicted of
13 a specified crime or a representative of the individual.

14 (3) EARNED INCOME. Income derived from an
15 individual's own labor or active participation in a business.
16 The term does not include income from dividends or
17 investments.

18 (4) FUNDS OF A CONVICTED INDIVIDUAL. Funds and
19 property received from any source by a convicted individual.
20 The term includes funds that a superintendent, sheriff,
21 municipal official, or other correctional official receives on
22 behalf of a convicted individual and deposits into the
23 individual's inmate or prisoner account to the credit of the
24 individual. The term does not include funds from child support
25 payments and earned income.

26 (5) PERSON. An individual, corporation, estate,
27 partnership, association, or other legal entity, or

1 representative of such. The term does not include the state, a
2 political subdivision of the state, or an individual who is a
3 superintendent, sheriff, municipal official, or other
4 correctional official required to give notice by this
5 division.

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

7 a. Property or income of a convicted individual that
8 the individual obtained or generated from the commission of
9 the crime of which the individual was convicted.

10 b. Property or income that a convicted individual
11 obtained or generated from the sale, conversion, or exchange
12 of proceeds of a specified crime of which the individual was
13 convicted.

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

21 d. Property obtained by or income generated from the
22 reenactment of a specified crime, by way of a movie, book,
23 magazine, radio, or television presentation, live
24 entertainment, or from any other written or verbal expression
25 of the individual's thoughts, feelings, opinions, or emotions
26 regarding the crime.

1 (7) REPRESENTATIVE. A person who represents or
2 stands in the place of another person, including, but not
3 limited to, an agent, assignee, attorney, guardian, committee,
4 conservator, partner, receiver, administrator, executor or
5 heir of another person, or parent of a minor.

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

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

12 a. A victim of a specified crime.

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

14 1. The surviving spouse of the victim.

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

18 §41-9-80.3.

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

26 (b) (1) A superintendent, sheriff, municipal
27 official, or other correctional official shall also give

1 written notice to the board of any payment or obligation to
2 pay subject to the notice requirements of subsection (a) if he
3 or she receives or will receive funds, the combined or
4 aggregate value of which exceeds five thousand dollars
5 (\$5,000), on behalf of a convicted individual who is serving a
6 sentence with the Alabama Department of Corrections or is
7 otherwise confined at a local correctional facility and
8 deposits or will deposit the funds into an inmate or prisoner
9 account to the credit of the individual.

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

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

23 (c) The board shall notify all known victims of the
24 crime of the convicted individual of the existence of the
25 profits or funds at each victim's last known address upon
26 receipt of either of the following:

1 (1) Notice of a contract, an agreement to pay, or
2 payment of profits from a crime or funds of a convicted
3 individual pursuant to subsection (a) or (b).

4 (2) Notice of the payment of funds of a convicted
5 individual from the superintendent, sheriff, municipal
6 official or other correctional official of the facility where
7 the individual is confined.

8 §41-9-80.4.

9 (a) Notwithstanding any other provision of law to
10 the contrary, a victim of a crime may bring a civil action in
11 a court of competent jurisdiction to recover restitution or
12 money damages, or both, from the convicted individual who
13 committed the crime or the individual's representative.

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

19 (c) An action pursuant to subsection (a) must be
20 filed within five years of the discovery of the profits or
21 funds or within five years of actual notice received from or
22 published by the board of the discovery of the profits or
23 funds, whichever is later.

24 §41-9-80.5.

25 (a) Upon filing an action pursuant to subsection (a)
26 of Section 41-9-80.4, the victim of a crime shall give notice

1 to the board of the filing by delivering a copy of the summons
2 and complaint to the board.

3 (b) Prior to filing an action under Section
4 41-9-80.4, the victim of a crime may give notice to the board.
5 Upon receipt of the notice, the board may apply for any
6 appropriate provisional remedy that is otherwise authorized to
7 be invoked prior to the commencement of an action.

8 §41-9-80.6.

9 (a) Upon receipt of a copy of a summons and
10 complaint or upon receipt of notice from a victim of a crime
11 prior to the filing of an action as provided in subsection (b)
12 of 41-9-80.5, the board shall immediately do all of the
13 following:

14 (1) Notify all other known victims of a crime of the
15 convicted individual of the alleged existence of profits from
16 the crime or funds of the crime of the convicted individual by
17 certified mail, return receipt requested.

18 (2) Publish a legal notice in newspapers of general
19 circulation in the county where the crime was committed and in
20 counties contiguous to the county. The notice shall be
21 published once every six months for five years from the date
22 the board is initially notified by the victim. The notice
23 shall advise any victims of the crime of the existence of
24 profits from the crime or funds of the convicted individual.

25 (b) The board may provide for any additional notice
26 as the board deems necessary.

1 (c) The costs of publication for any notice issued
2 under this section shall be paid for from the profits from the
3 crime or funds of the convicted individual.

4 §41-9-80.7.

5 (a) The Attorney General or the board, acting on
6 behalf of a victim of a crime, may apply for any and all
7 provisional remedies that are also otherwise available to the
8 victim.

9 (b) The provisional remedies of attachment,
10 injunction, receivership, and notice of pendency available to
11 the victim of the crime under existing law and the Alabama
12 Rules of Civil Procedure shall also be available to the
13 Attorney General or the board in all actions under this
14 division.

15 (c) Upon the filing of a motion for a provisional
16 remedy, the moving party shall state whether any other
17 provisional remedy has previously been sought in the same
18 action against the same defendant. The court may require the
19 moving party to elect between those remedies to which it would
20 otherwise be entitled.

21 §41-9-80.8.

22 (a) If a person knowingly and willfully fails to
23 give notice in violation of Section 41-9-80.3, the board,
24 after notice and hearing pursuant to the Alabama
25 Administrative Procedure Act, shall impose an assessment of up
26 to the amount of the payment or obligation to pay and a civil

1 penalty of up to one thousand dollars (\$1,000) or ten percent
2 of the payment or obligation to pay, whichever is greater.

3 (b) (1) If a person fails to pay the assessment and
4 civil penalty imposed by subsection (a), the assessment and
5 civil penalty may be recovered from the person by an action
6 brought by the Attorney General, upon the request of the
7 board, in any court of competent jurisdiction. The board shall
8 deposit the assessment in an escrow account pending the
9 expiration of the five-year statute of limitations contained
10 in Section 41-9-80.4 to preserve the funds to satisfy a civil
11 judgment in favor of an individual who is a victim of a crime
12 committed by the convicted individual to whom the failure to
13 give notice relates.

14 (2) The board shall notify any victim of a crime
15 committed by the convicted individual to whom the failure to
16 give notice relates of the existence of the funds. The notice
17 shall instruct the victim of the crime that he or she may have
18 a right to commence a civil action against the convicted
19 individual, as well as any other information deemed necessary
20 by the board.

21 (3) a. Upon presentation to the board of any civil
22 judgment for restitution or money damages incurred as a result
23 of the crime under Section 41-9-80.4, or any other provision
24 of law, the board shall satisfy up to 100 percent of the
25 judgment by a victim of a crime by the convicted individual to
26 whom the failure to give notice under this subsection relates,
27 including costs and disbursements as taxed by the clerk of the

1 court, from the escrowed fund obtained pursuant to this
2 subsection, but the amount of all judgments, costs, and
3 disbursements satisfied from the escrowed funds may not exceed
4 the amount in escrow.

5 b. If more than one victim of a crime indicates to
6 the board that they intend to commence or have commenced a
7 civil action against the convicted individual, the board shall
8 delay satisfying any judgment, costs, or disbursements until
9 the claims of all such victims of the crime are reduced to
10 judgment.

11 c. If the aggregate of all judgments, costs, and
12 disbursement obtained exceeds the amount of escrowed funds,
13 the amount shall be reduced to a pro rata share to partially
14 satisfy each judgment.

15 (4) After expiration of the five-year statute of
16 limitations period established in Section 41-9-80.4, the board
17 shall review all judgments that have been satisfied from the
18 escrowed funds. In the event no claim was filed or judgment
19 obtained prior to the expiration of the five-year statute of
20 limitations, the board shall return the escrowed amount to the
21 convicted individual. In the event a claim or claims are
22 pending at the expiration of the statute of limitations, the
23 funds shall remain escrowed until the final determination of
24 all of the claims to allow the board to satisfy any judgment
25 which may be obtained by the victim.

26 (5) Notwithstanding any provision of law to the
27 contrary, an alleged failure by a convicted individual to give

1 notice under Section 41-9-80.3 may not result in proceedings
2 for an alleged violation of the conditions of probation,
3 parole, conditional release, post release supervision, or
4 supervised release, unless all of the following occur:

5 a. A victim of a crime makes one or more claims
6 pursuant to this division.

7 b. The board imposes an assessment or penalty, or
8 both, against the convicted individual pursuant to this
9 division.

10 c. The convicted individual fails to pay the total
11 amount of the assessment or penalty within 60 days of the
12 imposition of the assessment or penalty.

13 (6) Records maintained by the board and proceedings
14 by the board regarding a claim submitted by a victim of a
15 crime are confidential.

16 Section 3. If the individual's conviction is
17 overturned, the individual may apply to the board to have the
18 funds received under Section 41-9-80.3(a) and disbursed
19 pursuant to this provision, reinstated and repaid to the
20 individual.

21 Section 4. This act shall become effective
22 immediately upon its passage and approval by the Governor, or
23 upon its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 05-MAR-19

Read for the second time and placed on the calen-
dar 2 amendments..... 20-MAR-19

Read for the third time and passed as amended 02-MAY-19

Yeas 32
Nays 0

Patrick Harris,
Secretary.