

1 HB180
2 199114-2
3 By Representatives Robertson, Estes, Stringer, Simpson,
4 Reynolds, Polizos and Ball
5 RFD: Judiciary
6 First Read: 19-MAR-19

1 ENGROSSED

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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 Attorney General, 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22 Alabama 1975, is repealed.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) BOARD. The Board of Adjustment.~~

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

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

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

21 (5) 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 (6) 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 (7) 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, or parent of a minor.

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

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

7 a. A victim of a specified crime.

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

9 1. The surviving spouse of the victim.

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

13 §41-9-80.3.

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

21 (b) (1) A superintendent, sheriff, municipal
22 official, or other correctional official shall also give
23 written notice to the Attorney General ~~board~~ of any payment
24 or obligation to pay subject to the notice requirements of
25 subsection (a) if he or she receives or will receive funds,
26 the combined or aggregate value of which exceeds five thousand
27 dollars (\$5,000), on behalf of a convicted individual who is

1 serving a sentence with the Alabama Department of Corrections
2 or is otherwise confined at a local correctional facility and
3 deposits or will deposit the funds into an inmate or prisoner
4 account to the credit of the individual.

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

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

19 ~~(c) The board shall notify all known victims of the~~
20 ~~crime of the convicted individual of the existence of the~~
21 ~~profits or funds at each victim's last known address upon~~
22 ~~receipt of either of the following:~~

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

26 ~~(2) Notice of the payment of funds of a convicted~~
27 ~~individual from the superintendent, sheriff, municipal~~

1 ~~official or other correctional official of the facility where~~
2 ~~the individual is confined.~~

3 §41-9-80.4.

4 (a) Notwithstanding any other provision of law to
5 the contrary, a victim of a crime may bring a civil action in
6 a court of competent jurisdiction to recover restitution or
7 money damages, or both, from the convicted individual who
8 committed the crime or the individual's representative.

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

14 ~~(c) An action pursuant to subsection (a) must be~~
15 ~~filed within five years of the discovery of the profits or~~
16 ~~funds or within five years of actual notice received from or~~
17 ~~published by the board of the discovery of the profits or~~
18 ~~funds, whichever is later. In actions seeking relief pursuant~~
19 ~~to subsection (a), the claim must not be considered as having~~
20 ~~accrued until (1) the actual discovery of the profits or~~
21 ~~funds, or (2) actual notice received from or published by the~~
22 ~~Attorney General of the discovery of the profits or funds,~~
23 ~~whichever occurs first, after which a victim of a crime must~~
24 ~~have five years within which to prosecute the action.~~

25 §41-9-80.5.

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

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

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

9 ~~§41-9-80.6.~~

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

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

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

26 ~~(b) The board may provide for any additional notice~~
27 ~~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,~~ the court of competent
26 jurisdiction in which the action set forth in Section
27 41-9-80.4(a) is pending shall impose an assessment of up to

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

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

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

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

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

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

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

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

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

7 a. A victim of a crime makes one or more claims
8 pursuant to this division.

9 b. The ~~board~~ court of competent jurisdiction imposes
10 an assessment or penalty, or both, against the convicted
11 individual pursuant to this division.

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

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

18 Section 3. This act shall become effective
19 immediately upon its passage and approval by the Governor, or
20 upon its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 19-MAR-19

Read for the second time and placed
on the calendar 2 amendments 03-APR-19

Read for the third time and passed
as amended..... 16-APR-19

Yeas 99, Nays 0, Abstains 0

Jeff Woodard
Clerk