

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

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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 This bill would require a person who pays or  
27 contracts to pay an individual convicted of a

1 specified crime to provide notice to the Board of  
2 Adjustment of the payment or intended payment and  
3 require the board to provide notice of the payment  
4 to all known crime victims.

5 The bill would authorize a crime victim or  
6 the Attorney General or Board of Adjustment, on  
7 behalf of the crime victim, to apply for civil  
8 compensation and other remedies relating to the  
9 crime.

10 This bill would authorize the Board of  
11 Adjustment to impose civil penalties for failure of  
12 a payor to report funds and property paid to an  
13 individual convicted of a specified crime and would  
14 establish a procedure for providing notice and  
15 hearing to the payor.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
20

21 Relating to crime victims' compensation; to repeal  
22 Division 2 (commencing with Section 41-9-80) and to add  
23 Division 2A (commencing with Section 41-9-80.1) to Article 4  
24 of Chapter 9 of the Code of Alabama 1975; to establish Lisa's  
25 Law; to provide a procedure for collecting certain funds and  
26 property paid to or intended to be paid to an individual  
27 convicted of certain crimes; to provide notice requirements to

1 the payor of the funds or property; to authorize certain crime  
2 victims or the Board of Adjustment or the Attorney General on  
3 behalf of the crime victims, to apply for civil compensation  
4 and other civil remedies arising from the commission of the  
5 crime; and to authorize the Board of Adjustment to issue civil  
6 penalties for violations.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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10 Alabama 1975, is repealed.

11 Section 2. Division 2A (commencing with Section  
12 41-9-80.1) is added to Article 4 of Chapter 9 of Title 41 of  
13 the Code of Alabama 1975, to read as follows:

14 Division 2A. Victims of Crimes.

15 §41-9-80.1.

16 This division shall be known and may be cited as  
17 Lisa's Law.

18 §41-9-80.2.

19 As used in this division, the following terms shall  
20 have the following meanings:

21 (1) BOARD. The Board of Adjustment.

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

24 (3) EARNED INCOME. Income derived from an  
25 individual's own labor or active participation in a business.  
26 The term does not include income from dividends or  
27 investments.

1                   (4) FUNDS OF A CONVICTED INDIVIDUAL. Funds and  
2 property received from any source by a convicted individual.  
3 The term includes funds that a superintendent, sheriff,  
4 municipal official, or other correctional official receives on  
5 behalf of a convicted individual and deposits into the  
6 individual's inmate or prisoner account to the credit of the  
7 individual. The term does not include funds from child support  
8 payments and earned income.

9                   (5) PERSON. An individual, corporation, estate,  
10 partnership, association, or other legal entity, or  
11 representative of such. The term does not include the state, a  
12 political subdivision of the state, or an individual who is a  
13 superintendent, sheriff, municipal official, or other  
14 correctional official required to give notice by this  
15 division.

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

17                   a. Property or income of a convicted individual that  
18 the individual obtained or generated from the commission of  
19 the crime of which the individual was convicted.

20                   b. Property or income that a convicted individual  
21 obtained or generated from the sale, conversion, or exchange  
22 of proceeds of a specified crime of which the individual was  
23 convicted.

24                   c. Property or income generated as a result of  
25 having committed a specified crime of which a convicted  
26 individual was convicted, including through the use of unique  
27 knowledge obtained during the commission of, or in preparation

1 for, the commission of a specified crime, as well as any  
2 property or income obtained or generated from the sale,  
3 conversion, or exchange of the property.

4 d. Property obtained by or income generated from the  
5 reenactment of a specified crime, by way of a movie, book,  
6 magazine, radio, or television presentation, live  
7 entertainment, or from any other written or verbal expression  
8 of the individual's thoughts, feelings, opinions, or emotions  
9 regarding the crime.

10 (7) REPRESENTATIVE. A person who represents or  
11 stands in the place of another person, including, but not  
12 limited to, an agent, assignee, attorney, guardian, committee,  
13 conservator, partner, receiver, administrator, executor or  
14 heir of another person, or parent of a minor.

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

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

21 a. A victim of a specified crime.

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

23 1. The surviving spouse of the victim.

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

27 §41-9-80.3.

1           (a) A person that knowingly contracts for, pays for,  
2 or agrees to pay to a convicted individual profits from the  
3 that crime or to the representative of the individual, shall  
4 give written notice to the board of the payment or obligation  
5 to pay as soon as practicable after discovering that the  
6 payment or intended payment constitutes profits from a crime  
7 or funds of a convicted individual.

8           (b) (1) A superintendent, sheriff, municipal  
9 official, or other correctional official shall also give  
10 written notice to the board of any payment or obligation to  
11 pay subject to the notice requirements of subsection (a) if he  
12 or she receives or will receive funds, the combined or  
13 aggregate value of which exceeds five thousand dollars  
14 (\$5,000), on behalf of a convicted individual who is serving a  
15 sentence with the Alabama Department of Corrections or is  
16 otherwise confined at a local correctional facility and  
17 deposits or will deposit the funds into an inmate or prisoner  
18 account to the credit of the individual.

19           (2) Whenever the state or a political subdivision of  
20 the state makes a payment or has an obligation to pay funds of  
21 a convicted individual and the value, combined value, or  
22 aggregate value of the funds exceeds or will exceed five  
23 thousand dollars (\$5,000), the state or political subdivision  
24 of the state shall also give written notice to the board.

25           (3) In all other instances where the payment or  
26 obligation to pay involves funds of a convicted individual and  
27 the value, combined value, or aggregate value of the funds

1 exceeds or will exceed five thousand dollars (\$5,000), the  
2 convicted individual who receives or will receive the funds,  
3 or the representative of the individual, shall give written  
4 notice to the board.

5 (c) The board shall notify all known victims of the  
6 crime of the convicted individual of the existence of the  
7 profits or funds at each victim's last known address upon  
8 receipt of either of the following:

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

12 (2) Notice of the payment of funds of a convicted  
13 individual from the superintendent, sheriff, municipal  
14 official or other correctional official of the facility where  
15 the individual is confined.

16 §41-9-80.4.

17 (a) Notwithstanding any other provision of law to  
18 the contrary, a victim of a crime may bring a civil action in  
19 a court of competent jurisdiction to recover restitution or  
20 money damages, or both, from the convicted individual who  
21 committed the crime or the individual's representative.

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

1 (c) An action pursuant to subsection (a) must be  
2 filed within five years of the actual discovery of the profits  
3 or funds or within five years of actual notice received from  
4 or published by the board of the discovery of the profits or  
5 funds, whichever is later.

6 §41-9-80.5.

7 (a) Upon filing an action pursuant to subsection (a)  
8 of Section 41-9-80.4, the victim of a crime shall give notice  
9 to the board of the filing by delivering a copy of the summons  
10 and complaint to the board.

11 (b) Prior to filing an action under Section  
12 41-9-80.4, the victim of a crime may give notice to the board.  
13 Upon receipt of the notice, the board may apply for any  
14 appropriate provisional remedy that is otherwise authorized to  
15 be invoked prior to the commencement of an action.

16 §41-9-80.6.

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

22 (1) Notify all other known victims of a crime of the  
23 convicted individual of the alleged existence of profits from  
24 the crime or funds of the crime of the convicted individual by  
25 certified mail, return receipt requested.

26 (2) Publish a legal notice in newspapers of general  
27 circulation in the county where the crime was committed and in

1 counties contiguous to the county. The notice shall be  
2 published once every six months for five years from the date  
3 the board is initially notified by the victim. The notice  
4 shall advise any victims of the crime of the existence of  
5 profits from the crime or funds of the convicted individual.

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

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

11 §41-9-80.7.

12 (a) The Attorney General or the board, acting on  
13 behalf of a victim of a crime, may apply for any and all  
14 provisional remedies that are also otherwise available to the  
15 victim.

16 (b) The provisional remedies of attachment,  
17 injunction, receivership, and notice of pendency available to  
18 the victim of the crime under existing law and the Alabama  
19 Rules of Civil Procedure shall also be available to the  
20 Attorney General or the board in all actions under this  
21 division.

22 (c) Upon the filing of a motion for a provisional  
23 remedy, the moving party shall state whether any other  
24 provisional remedy has previously been sought in the same  
25 action against the same defendant. The court may require the  
26 moving party to elect between those remedies to which it would  
27 otherwise be entitled.

1                   §41-9-80.8.

2                   (a) If a person knowingly and willfully fails to  
3 give notice in violation of Section 41-9-80.3, the board,  
4 after notice and hearing pursuant to the Alabama  
5 Administrative Procedure Act, shall impose an assessment of up  
6 to the amount of the payment or obligation to pay and a civil  
7 penalty of up to one thousand dollars (\$1,000) or ten percent  
8 of the payment or obligation to pay, whichever is greater.

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

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

1           (3) a. Upon presentation to the board of a civil  
2 judgment for restitution or money damages incurred as a result  
3 of the crime, the board shall satisfy up to 100 percent of the  
4 judgment by a victim of a crime by the convicted individual to  
5 whom the failure to give notice under this subsection relates,  
6 including costs and disbursements as taxed by the clerk of the  
7 court, from the escrowed fund obtained pursuant to this  
8 subsection, but the amount of all judgments, costs, and  
9 disbursements satisfied from the escrowed funds may not exceed  
10 the amount in escrow.

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

17           c. If the aggregate of all judgments, costs, and  
18 disbursement obtained exceeds the amount of escrowed funds,  
19 the amount shall be reduced to a pro rata share to partially  
20 satisfy each judgment.

21           (4) After expiration of the five-year statute of  
22 limitations period established in Section 41-9-80.4, the board  
23 shall review all judgments that have been satisfied from the  
24 escrowed funds. In the event no claim was filed or judgment  
25 obtained prior to the expiration of the five-year statute of  
26 limitations, the board shall return the escrowed amount to the  
27 convicted individual. In the event a claim or claims are

1 pending at the expiration of the statute of limitations, the  
2 funds shall remain escrowed until the final determination of  
3 all of the claims to allow the board to satisfy any judgment  
4 which may be obtained by the victim.

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

11 a. A victim of a crime makes one or more claims  
12 pursuant to this division.

13 b. The board imposes an assessment or penalty, or  
14 both, against the convicted individual pursuant to this  
15 division.

16 c. The convicted individual fails to pay the total  
17 amount of the assessment or penalty within 60 days of the  
18 imposition of the assessment or penalty.

19 (6) Records maintained by the board and proceedings  
20 by the board regarding a claim submitted by a victim of a  
21 crime are confidential.

22 Section 3. This act shall become effective  
23 immediately upon its passage and approval by the Governor, or  
24 upon its otherwise becoming law.