
The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy R. Wells.

DIGEST

Dorsey-Colomb (SB 565)

Proposed law prohibits persons convicted of a capital offense and sentenced to death from profiting from any notoriety gained from the commission of those crimes or the sentences imposed for those crimes.

Proposed law provides the following definitions for purposes of proposed law:

1. "Account" and "escrow account" mean an escrow account in the name of a defendant convicted of a crime of violence as provided for by proposed law.
2. "Board" means the Crime Victims Reparations Board as provided for by present law.
3. "Catastrophic property damage" means catastrophic property damage as defined in present law relative to the rights of crime victims.
4. "Defendant" means an offender who has been convicted of a capital offense and sentenced to death in accordance with present law.
5. "Minor" means a person under the age of 18 years.
6. "Victim" means any person who suffers death, injury, or catastrophic property damage as a result of the defendant's crime of violence, or any person who is otherwise eligible to have a judgment or reparations award satisfied from a defendant's escrow account as provided for by proposed law, or any legal representative thereof, but does not include any person denied eligibility for a reparations award by present law relative to the rights of crime victims.

Proposed law provides that any proceeds or profits from any source, received or to be received, directly or indirectly, by a defendant or by any agent, assignee, or representative of the defendant, as a direct or indirect result of the defendant's crime or sentence for such crime, or the notoriety that such crime or sentence has conferred upon him, are subject to a court order requiring that such proceeds or profits be paid over to the state treasurer for deposit in an escrow account as provided for in proposed law if not otherwise deposited with the treasurer as provided by other provisions of proposed law.

Proposed law provides that every person, firm, corporation, partnership, association, or other legal entity that contracts with a defendant for any purpose described in proposed law must file a copy of the contract with the state treasurer, and pay over to the treasurer, commencing with the

date of the first payment under the contract, any funds that otherwise, by terms of the contract, would be payable to the defendant or to the defendant's agent, assignee, or representative. Proposed law further provides that if the contracting party fails to meet the obligation of payment as required by proposed law, then the treasurer, through the attorney general, is to bring a civil action in a court of competent jurisdiction to enforce payment.

Proposed law provides that any proceeds from a contract with the defendant relating to a depiction or discussion of the defendant's crime in a movie, book, newspaper, magazine, radio or television production, or live entertainment or publication of any kind are not subject to court order requiring payment of such proceeds to the treasurer unless an integral part of the work is a depiction or discussion of the defendant's crime or an impression of the defendant's thoughts, opinions, or emotions regarding such crime.

Proposed law provides that nothing in proposed law is to be construed to prohibit or hinder the return of property belonging to crime victims to its rightful owners.

Proposed law provides that upon petition of the attorney general filed at any time after the defendant is convicted and after notice to all interested parties and a hearing upon the petition and a finding for the state, the court is to order that such proceeds or profits as described in proposed law be paid over to the state treasurer for deposit in an escrow account in the name of the defendant for the benefit of the victims of the defendant's crime.

Proposed law provides that the petition is to be filed in the judicial district where the defendant was convicted or in the judicial district in which the defendant is incarcerated. Proposed law provides that upon the filing of the petition, the clerk is to issue a writ of attachment or of sequestration, directing the sheriff of the parish where the petition was filed to take the defendant's property into his possession and hold such property subject to further proceedings in the cause. Proposed law further provides that if for any reason the writ is not executed, other writs may be successively issued until one is executed, and concurrent writs may be directed to sheriffs of several parishes. Proposed law provides that expenses and costs incurred in the proceedings are to be paid as the court, in its discretion, determines, except that no costs can be assessed against the state.

Proposed law provides that a victim who meets the eligibility requirements and other provisions of proposed law is entitled, subject to the limitations contained in proposed law, to an amount from the defendant's escrow account equal to the unsatisfied portion of the civil judgment or reparations award obtained by the victim.

Proposed law provides that proceeds paid into a defendant's escrow account are to be retained for a period of 10 years after the date of the court order or deposit by the contracting party, but during that period may be levied upon to satisfy a money judgment or reparations award rendered in favor of a victim or the legal representative of the victim of the defendant's crime. Proposed law further provides that, if so ordered by a court, with notice to all interested parties and opportunity for hearing, the escrow account is to be used to satisfy the following, in the following order:

1. Court ordered restitution in favor of a victim of the defendant's crime.
2. A money judgment rendered by a court or an award of reparations by the Crime Victims Reparations Board in favor of a victim of the defendant's crime.
3. Fees due for legal representation of the defendant in criminal proceedings, including the appeals process, to the extent that the defendant's representation was paid for by the state or an agency thereof, but such amounts paid cannot exceed 25% of the total amount in escrow.
4. Any fines or costs assessed against the defendant by a court.

Proposed law provides that at the end of the 10-year period provided for in proposed law, the remaining escrow account funds are to be paid into the Crime Victims Reparations Fund; however, if a civil action is pending against the defendant that would be eligible to be satisfied out of the escrow account, then the funds are to be held in escrow until completion of the action.

Proposed law provides that if the defendant has appealed his conviction and the appeal process is not finalized by the expiration of the 10-year period, then the remaining escrow account funds are to be held until the appeal process is finalized, and if the conviction is reversed, the treasurer is to pay any money remaining in the escrow account to the defendant.

Proposed law provides that the following persons are eligible to have a judgment or reparations award satisfied from an escrow account provided for by proposed law:

1. A victim of the respective defendant's crime or the parent or legal guardian of a minor who is the victim of such defendant's crime.
2. A surviving spouse, parent, grandparent, sibling, or child, including posthumous children, of a victim of a defendant's crime who died as a direct result of such crime.
3. Any person, except a law-enforcement officer engaged in the performance of his duties, who is injured or killed while trying to prevent the defendant's crime from occurring in his presence, or trying to apprehend the defendant during the course of his crime.
4. A surviving spouse, parent, grandparent, sibling, or child, including posthumous children, of any person, except a law-enforcement officer engaged in the performance of his duties, who dies as a direct result of trying to prevent defendant's crime or trying to apprehend the defendant during the course of the crime.
5. Any other person legally dependent for his principal support from the victim of the defendant's crime and who dies as a result of such crime, or legally dependent for his principal support upon any person who dies as a direct result of trying to prevent the defendant's crime from occurring in his presence, or trying to apprehend the defendant during the course of the crime.

Proposed law provides that a person who is criminally responsible for the crime upon which a claim is based, or an accomplice or accessory of such person, is not eligible to receive an award under the provisions of proposed law.

Proposed law provides that a resident of Louisiana who is the victim of a defendant's crime which occurred outside of Louisiana and any other person who is injured as a result of a crime occurring outside of Louisiana is eligible for an award pursuant to proposed law if the following conditions are met:

1. The person would be eligible for an award had the crime occurred in Louisiana.
2. The state, country, or territory in which the crime occurred does not have a victims' compensation program deemed eligible pursuant to the provision of the federal Victims of Crime Act and does not compensate nonresidents.

Proposed law provides that a victim of the defendant's crime is to register with the treasurer a notice of intent to file a claim against the defendant's escrow account pursuant to a judgment, a pending lawsuit, a prospective lawsuit, or a reparations award by the board, within one year after establishment of the escrow account. Proposed law further provides that a victim's failure to comply with this requirement forfeits the victim's rights to the escrow account as against other victims who have filed claims, but does not bar a claim against the escrow account filed within two years of the establishment of such account.

Proposed law provides that no payments to victims can be made until the time limit for filing a notice has expired or it is established that all victims have filed their notices, whichever is sooner.

Proposed law provides that the treasurer is to notify any person who has registered with the treasurer as a victim of the defendant's crime upon receipt of escrow funds for that defendant, and at least once every six months for two years after the date on which the treasurer receives such escrow funds, the treasurer is to publish a notice in the official state journal informing victims that such escrow funds are available to satisfy judgments or reparations awards.

Proposed law provides that any action taken by a defendant, whether by way of execution of a power of attorney, creation of corporate entities, or otherwise, to defeat the purposes of proposed law is null and void.

Present law provides that the secretary of the Dept. Public Safety and Corrections may authorize visits and correspondence under reasonable conditions between inmates and approved friends, relatives, and other persons.

Proposed law retains present law and adds that the secretary is to establish and promulgate rules, regulations, and procedures regarding the review and inspection of all incoming and outgoing inmate correspondence in order to effectuate the purposes of proposed law and to determine whether any contractual arrangements governed by the provisions of proposed law are in effect or

being contemplated by an inmate or any other person.

Present law provides for the creation and composition of the Crime Victims Reparations Fund, including funds from the Crime Victim's Escrow Account law, which previously has been repealed.

Proposed law deletes the reference in present law to the Crime Victim's Escrow Account, and further provides that in addition to the other sources provided for by present law, the Crime Victims Reparations Fund is to be composed of any monies paid into the fund pursuant to proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 15:833(A) and R.S. 46:1816(B)(6); adds R.S. 46:1851-1857)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Changes scope of legislation from a person convicted of a crime of violence to person who has been convicted of a capital offense and sentenced to death in accordance with law.
2. Deletes the definition of crime.
3. Changes the definition of defendant.