

SENATE BILL NO. 565

BY SENATOR DORSEY-COLOMB

1 AN ACT

2 To amend and reenact R.S. 15:833(A) and R.S. 46:1816(B)(6), and to enact R.S.
3 14:402(D)(10) and Chapter 21-C of Title 46 of the Louisiana Revised Statutes of
4 1950, comprised of R.S. 46:1851 through 1857, relative to prisons and offenders; to
5 provide for definitions; to provide for the creation of escrow accounts for certain
6 inmates who enter into contracts for profits derived from the notoriety gained from
7 their crimes; to provide relative to the distribution of escrow account funds to certain
8 crime victims; to provide relative to notice to crime victims of escrow account funds
9 becoming available; to provide for definitions; to provide relative to inspection of
10 certain inmate correspondence; to provide relative to the Crime Victims Reparations
11 Fund; to provide for the payment of certain inmate escrow account funds into the
12 Crime Victims Reparations Fund; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 14:402(D)(10) is hereby enacted to read as follows:

15 §402. Contraband defined; certain activities regarding contraband in penal
16 institutions prohibited; penalty; disposition of seized contraband

17 * * *

18 D. "Contraband" as used herein means:

19 * * *

20 **(10) Any sketch, painting, drawing or other pictorial rendering produced**
21 **in whole or in part by a capital offender, unless authorized by the warden of the**
22 **institution.**

23 * * *

24 Section 2. R.S. 15:833(A) is hereby amended and reenacted to read as follows:

25 §833. Inmate contact with persons outside institution; temporary release

26 A. **(1)** The secretary of the Department of Public Safety and Corrections may

1 authorize visits and correspondence under reasonable conditions between inmates
2 and approved friends, relatives, and other persons.

3 (2) The secretary shall establish and promulgate rules, regulations, and
4 procedures regarding the review and inspection of all incoming and outgoing
5 death row inmate correspondence in order to effectuate the purposes of Chapter
6 21-C of Title 46 of the Louisiana Revised Statutes of 1950, and to determine
7 whether any contractual arrangements governed by those provisions are in
8 effect or being contemplated by an inmate or any other person.

9 * * *

10 Section 3. R.S. 46:1816(B)(6) is hereby amended and reenacted, and Chapter 21-C
11 of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:1851 through
12 1857, is hereby enacted to read as follows:

13 §1816. Crime Victims Reparations Fund; creation; sources of funds; uses

14 * * *

15 B. The fund shall be composed of:

16 * * *

17 (6) Any monies paid into the fund from a ~~criminal victim's escrow account~~
18 defendant's escrow account, as provided by Chapter ~~21-A~~ 21-C of this Title.

19 * * *

20 CHAPTER 21-C. PROFITS FROM CRIME OR NOTORIETY

21 §1851. Definitions

22 As used in this Chapter:

23 (1) "Account" and "escrow account" mean an escrow account in the
24 name of a defendant as provided for by this Chapter.

25 (2) "Board" means the Crime Victims Reparations Board provided for
26 by Chapter 21 of Title 46 of the Louisiana Revised Statutes of 1950.

27 (3) "Catastrophic property damage" means catastrophic property
28 damage as defined in Chapter 21 of Title 46 of the Louisiana Revised Statutes
29 of 1950.

30 (4) "Defendant" means an offender who has been convicted of a capital

1 offense and sentenced to death in accordance with the provisions of R.S. 15:567
2 through 571.

3 (5) "Minor" means a person under the age of eighteen years.

4 (6) "Victim" means any person who suffers death, injury, or
5 catastrophic property damage as a result of the defendant's crime, or any
6 person who is otherwise eligible to have a judgment or reparations award
7 satisfied from a defendant's escrow account as provided for by this Chapter, or
8 any legal representative thereof, but does not include any person denied
9 eligibility for a reparations award by Chapter 21 of Title 46 of the Louisiana
10 Revised Statutes of 1950.

11 §1852. Profits relative to criminal acts or notoriety

12 A.(1) Any proceeds or profits from any source, received or to be
13 received, directly or indirectly, by a defendant or by any agent, assignee, or
14 representative of the defendant, as a direct or indirect result of the defendant's
15 crime or sentence for such crime, or the notoriety that such crime or sentence
16 has conferred upon him, shall be subject to a court order requiring that such
17 proceeds or profits be paid over to the state treasurer for deposit in an escrow
18 account as provided for in this Section, if not otherwise deposited with the
19 treasurer as provided for in Paragraph (2) of this Subsection.

20 (2) Every person, firm, corporation, partnership, association, or other
21 legal entity that contracts with a defendant for any purpose described in
22 Paragraph (1) of this Subsection shall file a copy of the contract with the state
23 treasurer, and shall pay over to the treasurer, commencing with the date of the
24 first payment under the contract, any funds that otherwise, by terms of the
25 contract, would be payable to the defendant or to the defendant's agent,
26 assignee, or representative. If the contracting party fails to meet the obligation
27 of payment as required by this Paragraph, then the treasurer, through the
28 attorney general, shall bring a civil action in a court of competent jurisdiction
29 to enforce payment.

30 B.(1) Any proceeds from a contract with the defendant relating to a

1 depiction or discussion of the defendant's crime in a movie, book, newspaper,
2 magazine, radio or television production, or live entertainment or publication
3 of any kind shall not be subject to court order requiring payment of such
4 proceeds to the treasurer unless an integral part of the work is a depiction or
5 discussion of the defendant's crime or an impression of the defendant's
6 thoughts, opinions, or emotions regarding such crime.

7 (2) Nothing in this Section shall be construed to prohibit or hinder the
8 return of property belonging to victims of crime to its rightful owners.

9 C.(1) Upon petition of the attorney general filed at any time after the
10 defendant is convicted and after notice to all interested parties and a hearing
11 upon the petition and a finding for the state, the court shall order that such
12 proceeds or profits as described in Subsection A of this Section be paid over to
13 the state treasurer for deposit in an escrow account in the name of the
14 defendant for the benefit of the victims of the defendant's crime.

15 (2) The petition shall be filed in the judicial district where the defendant
16 was convicted or in the judicial district in which the defendant is incarcerated.

17 (3) Upon the filing of the petition, the clerk shall issue a writ of
18 attachment or of sequestration, directing the sheriff of the parish where the
19 petition was filed to take the defendant's property into his possession and hold
20 such property subject to further proceedings in the cause. If for any reason the
21 writ is not executed, other writs may be successively issued until one is executed.
22 Concurrent writs may be directed to sheriffs of several parishes.

23 (4) Expenses and costs incurred in the proceedings shall be paid as the
24 court, in its discretion, shall determine, except that no costs shall be assessed
25 against the state.

26 D. A victim who meets the eligibility requirements and other provisions
27 of this Chapter shall be entitled, subject to the limitations contained in this
28 Chapter, to an amount from the defendant's escrow account equal to the
29 unsatisfied portion of the civil judgment or reparations award obtained by the
30 victim.

1 §1853. Distribution of escrow account funds

2 A. Proceeds paid into an escrow account provided for by this Chapter
3 shall be retained for a period of ten years after the date of the court order or
4 deposit by the contracting party, but during that period may be levied upon to
5 satisfy a money judgment or reparations award rendered in favor of a victim
6 or the legal representative of the victim of the defendant's crime.

7 B. If so ordered by a court, with notice to all interested parties and
8 opportunity for hearing, the escrow account shall be used to satisfy, and
9 disbursements made therefrom by the treasurer, in the following order:

10 (1) Court-ordered restitution in favor of a victim of the defendant's
11 crime.

12 (2) A money judgment rendered by a court or an award of reparations
13 by the Crime Victims Reparations Board in favor of a victim of the defendant's
14 crime.

15 (3) Fees due for legal representation of the defendant in criminal
16 proceedings, including the appeals process, to the extent that the defendant's
17 representation was paid for by the state or an agency thereof, but such amounts
18 paid shall not exceed twenty-five percent of the total amount in escrow.

19 (4) Any fines or costs assessed against the defendant by a court.

20 C. At the end of the ten-year period provided for in Subsection A of this
21 Section, the remaining escrow account funds shall be paid into the Crime
22 Victims Reparations Fund as provided for by R.S. 46:1816. However, if a civil
23 action is pending against the defendant that would be eligible to be satisfied out
24 of the escrow account, then the funds shall be held in escrow until completion
25 of the action.

26 D. If the defendant has appealed his conviction and the appeal process
27 is not finalized by the expiration of the ten-year period provided for in
28 Subsection A of this Section, then the remaining escrow account funds shall be
29 held until the appeal process is finalized, and if the conviction is reversed, the
30 treasurer shall pay any money remaining in the escrow account to the

1 defendant.

2 §1854. Persons eligible for awards

3 A. The following persons shall be eligible to have a judgment or
4 reparations award satisfied from an escrow account provided for by this
5 Chapter:

6 (1) A victim of the defendant's crime or the parent or legal guardian of
7 a minor who is the victim of the defendant's crime.

8 (2) A surviving spouse, parent, grandparent, sibling, or child, including
9 posthumous children, of a victim who died as a direct result of the defendant's
10 crime.

11 (3) Any person, except a law-enforcement officer engaged in the
12 performance of his duties, who is injured or killed while trying to prevent the
13 defendant's crime from occurring in his presence, or trying to apprehend the
14 defendant during the course of the crime.

15 (4) A surviving spouse, parent, grandparent, sibling, or child, including
16 posthumous children, of any person, except a law-enforcement officer engaged
17 in the performance of his duties, who dies as a direct result of trying to prevent
18 the defendant's crime from occurring in his presence, or trying to apprehend
19 the defendant during the course of the crime.

20 (5) Any other person legally dependent for his principal support from the
21 victim who dies as a result of the defendant's crime, or legally dependent for his
22 principal support from any person who dies as a direct result of trying to
23 prevent the defendant's crime from occurring in his presence, or trying to
24 apprehend the defendant during the course of the crime.

25 B. A person who is criminally responsible for the crime upon which a
26 claim is based, or an accomplice or accessory of such person, shall not be
27 eligible to receive an award under the provisions of this Chapter.

28 C. A resident of Louisiana who is the victim of a defendant's crime
29 occurring outside of Louisiana and any other person as defined in Subsection
30 A of this Section who is injured as a result of a defendant's crime occurring

1 outside of Louisiana shall be eligible for an award pursuant to this Chapter if
2 the following conditions are met:

3 (1) The person would be eligible for an award had the crime occurred in
4 Louisiana.

5 (2) The state, country, or territory in which the crime occurred does not
6 have a victims' compensation program deemed eligible pursuant to the
7 provision of the federal Victims of Crime Act, Chapter 112 of Title 42 of the
8 United States Code, and does not compensate nonresidents.

9 §1855. Victim's notice of intent to file a claim

10 A. A victim of the defendant's crime shall register with the treasurer a
11 notice of intent to file a claim against the defendant's escrow account pursuant
12 to a judgment, a pending lawsuit, a prospective lawsuit, or a reparations award
13 by the board, within one year after establishment of the escrow account.

14 B. A failure to comply with the requirement of this Section shall forfeit
15 the rights of the victim to the escrow account as against other victims who have
16 filed claims, but shall not bar a claim against the escrow account filed within
17 two years of the establishment of such account.

18 C. No payments to victims shall be made until the time limit for filing a
19 notice has expired or it is established that all victims have filed their notices,
20 whichever is sooner.

21 §1856. Notice to victims

22 The treasurer shall notify any person who has registered with the
23 treasurer as a victim of the defendant's crime upon receipt of escrow funds for
24 that defendant. Additionally, at least once every six months for two years after
25 the date on which the treasurer receives such escrow funds, the treasurer shall
26 cause a notice to be published in the official state journal informing victims that
27 such escrow funds are available to satisfy judgments or reparations awards
28 pursuant to this Chapter.

29 §1857. Actions to defeat purposes of chapter prohibited

30 Any action taken by a defendant, whether by way of execution of a power

1 of attorney, creation of corporate entities, or otherwise, to defeat the purposes
2 of this Chapter shall be null and void.

3 Section 4. This Act shall become effective upon signature by the governor or, if not
4 signed by the governor, upon expiration of the time for bills to become law without signature
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become
7 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____