

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1751
By: Pena (Whitmire)
Criminal Justice
5/20/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The source of funds for the compensation to victims of crime fund are primarily generated by persons who commit criminal offenses. Although restitution is commonly ordered by the courts, it is not always ordered to reimburse the compensation to victims of crime fund for funds expended on behalf of the victim. In 2003, the State collected approximately \$48 million in restitution payments. Of the \$71 million paid out by the compensation to victims of crime fund, less than \$900,000 in restitution was ordered repaid to the fund. The additional revenue required by C.S.H.B. 1751 will help the fund remain viable for future victims.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 42.037, Code of Criminal Procedure, by amending Subsections (a)-(c) and (e)-(i), as follows:

(a) Authorizes, in addition to any fine authorized by law, the court to order the defendant convicted of an offense to make restitution to any victim of the offense or to the compensation to victims of crime fund (fund) established under Subchapter B, Chapter 56, to the extent that fund has paid compensation to or on behalf of the victim. Requires the court to state on the record the reasons for not making the order or for the limited order if the court does not order restitution or orders partial restitution under this subsection.

(b) Authorizes the court to order the defendant to either return the property or pay a certain amount if the offense results in damage to or loss or destruction of property. Authorizes, the court, if the offense results in personal injury to a victim, to order the defendant to make restitution to the victim for any expenses incurred by the victim as a result of the offense or the fund to the extent that fund has paid compensation to or on behalf of the victim. Deletes existing text setting forth the amounts the defendant may pay the victim. Deletes existing text relating to restitution in the case of the death of the victim. Authorizes the court, if the victim or victim's estate consents, to order the defendant to make restitution by performing services instead of by paying money or make restitution to a person or organization, other than the fund, designated by the victim or the estate. Makes nonsubstantive changes.

(c) Requires the court, in determining whether to order restitution, to consider the amount paid to or on behalf of the victim by the fund and other factors the court deems appropriate, other than the defendant's inability to pay. Deletes the requirement that the court consider the financial resources of the defendant and the financial needs and earning ability of the defendant and the defendant's dependents. Makes conforming and nonsubstantive changes.

(e) Requires the court to impose an order of restitution that is as fair as possible to the victim and to the fund.

(f) Prohibits the court from ordering restitution for a loss for which the victim has received or will receive compensation only from a source other than the fund. Makes a conforming change.

(g) Authorizes the court, if the court requires the defendant to make restitution in specified installments, in addition to the installment payments, to require the defendant to pay a one-time restitution fee of \$12, \$6 of which the court is required to retain for costs incurred in collecting the specified installments and \$6 of which the court is required to order to be paid to the fund. Makes a conforming change.

(h) Requires the court or parole panel, in determining whether to revoke community supervision, parole, or mandatory supervision, to consider the defendant's current and future earning ability, the defendant's current and future financial resources, and the victim's financial resources or ability to pay expenses incurred by the victim as a result of the offense.

(i) Authorizes the court to require a probationer to reimburse the compensation to victims of crime fund for any amounts paid from that fund to or on behalf of a victim of the probationer's offense. Redefines "victim." Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 11(a), Article 42.12, Code of Criminal Procedure, to authorize the conditions of community supervision to include a requirement that the defendant reimburse the fund, rather than the general revenue fund, for any amounts paid from that fund or on behalf of the victim. Makes conforming and nonsubstantive changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.