

By: Whitmire

S.B. No. 911

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain criminal defendants paying restitution to the  
3 compensation to victims of crime fund.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Articles 42.037(a), (f)(1), and (i), Code of  
6 Criminal Procedure, are amended to read as follows:

7 (a) In addition to any fine authorized by law, the court  
8 that sentences a defendant convicted of an offense may order the  
9 defendant to make restitution to any victim of the offense or to the  
10 compensation to victims of crime fund established under Subchapter  
11 B, Chapter 56. If the court does not order restitution or orders  
12 partial restitution under this subsection, the court shall state on  
13 the record the reasons for not making the order or for the limited  
14 order.

15 (f)(1) If the court orders the defendant to make restitution  
16 under this article, the court shall order the defendant to make  
17 restitution to the compensation to victims of crime fund  
18 established under Subchapter B, Chapter 56, for any amounts paid by  
19 that fund to a victim of the defendant's offense. The court may not  
20 order restitution for a loss for which the victim has received or  
21 will receive compensation. The court may, in the interest of  
22 justice, order restitution to any person other than the  
23 compensation to victims of crime fund who has compensated the  
24 victim for the loss to the extent the person paid compensation. An

1 order of restitution shall require that all restitution to a victim  
2 be made before any restitution to any other person is made under the  
3 order.

4 (i) In addition to any other terms and conditions of  
5 probation imposed under Article 42.12 [~~of this code~~], the court  
6 shall [~~may~~] require a probationer to reimburse the compensation to  
7 victims of crime [~~crime victims compensation~~] fund created under  
8 Subchapter B, Chapter 56, for any amounts paid from that fund to a  
9 victim of the probationer's offense. In this subsection, "victim"  
10 has the meaning assigned by Article 56.01 [~~of this code~~].

11 SECTION 2. Section 11(a), Article 42.12, Code of Criminal  
12 Procedure, is amended to read as follows:

13 (a) The judge of the court having jurisdiction of the case  
14 shall determine the conditions of community supervision and may, at  
15 any time, during the period of community supervision alter or  
16 modify the conditions. The judge may impose any reasonable  
17 condition that is designed to protect or restore the community,  
18 protect or restore the victim, or punish, rehabilitate, or reform  
19 the defendant. Conditions of community supervision may include,  
20 but shall not be limited to, the conditions that the defendant  
21 shall:

22 (1) Commit no offense against the laws of this State or  
23 of any other State or of the United States;

24 (2) Avoid injurious or vicious habits;

25 (3) Avoid persons or places of disreputable or harmful  
26 character;

27 (4) Report to the supervision officer as directed by

1 the judge or supervision officer and obey all rules and regulations  
2 of the community supervision and corrections department;

3 (5) Permit the supervision officer to visit the  
4 defendant [~~him~~] at the defendant's [~~his~~] home or elsewhere;

5 (6) Work faithfully at suitable employment as far as  
6 possible;

7 (7) Remain within a specified place;

8 (8) Pay the defendant's [~~his~~] fine, if one be assessed,  
9 and all court costs whether a fine be assessed or not, in one or  
10 several sums;

11 (9) Support the defendant's [~~his~~] dependents;

12 (10) Participate, for a time specified by the judge in  
13 any community-based program, including a community-service work  
14 program under Section 16 of this article;

15 (11) Reimburse the county in which the prosecution was  
16 instituted for compensation paid to appointed counsel for defending  
17 the defendant [~~him~~] in the case, if counsel was appointed, or if the  
18 defendant [~~he~~] was represented by a county-paid public defender, in  
19 an amount that would have been paid to an appointed attorney had the  
20 county not had a public defender;

21 (12) Remain under custodial supervision in a community  
22 corrections facility, obey all rules and regulations of such  
23 facility, and pay a percentage of the defendant's [~~his~~] income to  
24 the facility for room and board;

25 (13) Pay a percentage of the defendant's [~~his~~] income  
26 to the defendant's [~~his~~] dependents for their support while under  
27 custodial supervision in a community corrections facility;

1           (14) Submit to testing for alcohol or controlled  
2 substances;

3           (15) Attend counseling sessions for substance abusers  
4 or participate in substance abuse treatment services in a program  
5 or facility approved or licensed by the Texas Commission on Alcohol  
6 and Drug Abuse;

7           (16) With the consent of the victim of a misdemeanor  
8 offense or of any offense under Title 7, Penal Code, participate in  
9 victim-defendant mediation;

10          (17) Submit to electronic monitoring;

11          (18) Reimburse the compensation to victims of crime  
12 fund or the general revenue fund for any amounts paid from those  
13 funds [~~that fund~~] to a victim, as defined by Article 56.01 [~~of this~~  
14 ~~code~~], of the defendant's offense, or if no reimbursement is  
15 required, make one payment to the compensation to victims of crime  
16 fund in an amount not to exceed \$50 if the offense is a misdemeanor  
17 or not to exceed \$100 if the offense is a felony;

18          (19) Reimburse a law enforcement agency for the  
19 analysis, storage, or disposal of raw materials, controlled  
20 substances, chemical precursors, drug paraphernalia, or other  
21 materials seized in connection with the offense;

22          (20) Pay all or part of the reasonable and necessary  
23 costs incurred by the victim for psychological counseling made  
24 necessary by the offense or for counseling and education relating  
25 to acquired immune deficiency syndrome or human immunodeficiency  
26 virus made necessary by the offense;

27          (21) Make one payment in an amount not to exceed \$50 to

1 a crime stoppers organization as defined by Section 414.001,  
2 Government Code, and as certified by the Crime Stoppers Advisory  
3 Council;

4 (22) Submit a blood sample or other specimen to the  
5 Department of Public Safety under Subchapter G, Chapter 411,  
6 Government Code, for the purpose of creating a DNA record of the  
7 defendant; and

8 (23) In any manner required by the judge, provide  
9 public notice of the offense for which the defendant was placed on  
10 community supervision in the county in which the offense was  
11 committed.

12 SECTION 3. The changes in law made by this Act apply only to  
13 an order of restitution that is entered or a condition of community  
14 supervision that is imposed on or after September 1, 2005. An order  
15 of restitution that is entered or a condition of community  
16 supervision that is imposed before September 1, 2005, is governed  
17 by the law in effect on the date the order was entered or the  
18 condition was imposed, and the former law is continued in effect for  
19 that purpose.

20 SECTION 4. This Act takes effect September 1, 2005.