

By: Herrero

H.B. No. 2970

Substitute the following for H.B. No. 2970:

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C.S.H.B. No. 2970

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the use of money paid as restitution to or on behalf of
3 certain individuals depicted in child pornography.

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

5 SECTION 1. Article 42.037, Code of Criminal Procedure, is
6 amended by adding Subsection (r) to read as follows:

7 (r) The court shall order a defendant convicted of an
8 offense under Section 43.26, Penal Code, to make restitution to:

9 (1) an individual who as a child younger than 18 years
10 of age was depicted in the visual material, in an amount equal to
11 the expenses incurred by the individual as a result of the offense,
12 including:

13 (A) medical services relating to physical,
14 psychiatric, or psychological care;

15 (B) physical and occupational therapy or
16 rehabilitation;

17 (C) necessary transportation, temporary housing,
18 and child care expenses;

19 (D) lost income; and

20 (E) attorney's fees; or

21 (2) the compensation to child pornography victims fund
22 under Article 56.55 to the extent that:

23 (A) the fund has paid compensation to or on
24 behalf of the individual; or

1 (B) the court is unable to identify an individual
2 who as a child was depicted in the visual material, in an amount
3 determined by the court after considering:

4 (i) the average amount of the expenses
5 incurred by, and restitution ordered to, individuals in other
6 similar cases involving a conviction for an offense under Section
7 43.26, Penal Code; and

8 (ii) other factors the court considers
9 appropriate.

10 SECTION 2. Article 56.54(b), Code of Criminal Procedure, is
11 amended to read as follows:

12 (b) Except as provided by Subsections (h), (i), (j), and (k)
13 and Articles [Article] 56.541 and 56.55, the compensation to
14 victims of crime fund may be used only by the attorney general for
15 the payment of compensation to claimants or victims under this
16 subchapter. For purposes of this subsection, compensation to
17 claimants or victims includes money allocated from the fund to the
18 Crime Victims' Institute created by Section 96.65, Education Code,
19 for the operation of the institute and for other expenses in
20 administering this subchapter. The institute shall use money
21 allocated from the fund only for the purposes of Sections 96.65,
22 96.651, and 96.652, Education Code.

23 SECTION 3. Subchapter B, Chapter 56, Code of Criminal
24 Procedure, is amended by adding Article 56.55 to read as follows:

25 Art. 56.55. COMPENSATION TO CHILD PORNOGRAPHY VICTIMS FUND;
26 PAYMENT OF AWARDS OR EXPENSES. (a) The compensation to child
27 pornography victims fund is an account in the general revenue fund.

1 Money in the account may be used only to:

2 (1) award compensation under this article; or

3 (2) provide grants related to preventing child
4 pornography and related offenses, including trafficking of
5 persons.

6 (b) The attorney general shall:

7 (1) adopt rules governing the administration of the
8 compensation to child pornography victims fund, including rules
9 establishing procedures for the application, review, and award of
10 compensation or the issuance of a grant under this article; and

11 (2) notwithstanding any other provision of this
12 subchapter, transfer money from the compensation to child
13 pornography victims fund to a subaccount in the compensation to
14 victims of crime fund as necessary to award compensation or provide
15 a grant under this article.

16 (c) The attorney general shall award compensation to an
17 individual who as a child younger than 18 years of age was depicted
18 in visual material constituting the basis for one or more
19 convictions under Section 43.26, Penal Code, if the attorney
20 general finds by a preponderance of the evidence that sufficient
21 grounds exist for compensation under this article.

22 (d) An applicant for compensation under this article must
23 apply in writing on a form prescribed by the attorney general. The
24 applicant is not required to file an application under Article
25 56.36 to receive compensation under this article.

26 (e) An award for compensation under this article must be in
27 an amount equal to the expenses incurred by the individual as a

1 result of the offense, including:

2 (1) medical services relating to physical,
3 psychiatric, or psychological care;

4 (2) physical and occupational therapy or
5 rehabilitation;

6 (3) necessary transportation, temporary housing, and
7 child care expenses;

8 (4) loss of past earnings; and

9 (5) attorney's fees for assistance in obtaining
10 compensation under this article.

11 (f) The attorney general shall reduce an award under this
12 article by the amount of restitution received by or on behalf of the
13 individual under Article 42.037 and may reduce the award to the
14 extent that the applicable expenses are recouped from another
15 collateral source, including compensation awarded under Article
16 56.34.

17 (g) The attorney general may provide for the payment of an
18 award under this article in a lump sum or in installments.

19 (h) The attorney general by rule may limit the amount of
20 award that is payable to an individual under this article.

21 (i) The attorney general may use the compensation to victims
22 of crime fund to pay expenses associated with the administration of
23 the compensation to the child pornography victims fund under this
24 article.

25 (j) The attorney general may delegate a power, duty, or
26 responsibility given to the attorney general under this article to
27 a person in the attorney general's office.

1 (k) The name of an individual awarded compensation under
2 this article and any other identifying information regarding that
3 individual are confidential and not subject to disclosure under
4 Chapter 552, Government Code.

5 (l) To the extent of any conflict between this article and
6 another article of this subchapter regarding conduct for which
7 compensation may be awarded, this article controls.

8 SECTION 4. The change in law made by this Act applies only
9 to a conviction for a criminal offense committed on or after the
10 effective date of this Act. A criminal offense committed before the
11 effective date of this Act is governed by the law in effect on the
12 date the offense was committed, and the former law is continued in
13 effect for that purpose. For purposes of this section, a criminal
14 offense was committed before the effective date of this Act if any
15 element of the offense occurred before that date.

16 SECTION 5. This Act takes effect September 1, 2015.