

By: Herrero

H.B. No. 2970

A BILL TO BE ENTITLED

AN ACT

relating to the use of money paid as restitution to or on behalf of certain individuals depicted in child pornography.

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

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

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

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

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

(B) physical and occupational therapy or rehabilitation;

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

(D) lost income; and

(E) attorney's fees; or

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

(A) the fund has paid compensation to or on 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) pay expenses related to preventing crime,
4 including human trafficking crime.

5 (b) The attorney general shall establish a committee,
6 consisting of six members appointed by the attorney general, to
7 administer the account. Notwithstanding any other provision of
8 this subchapter, the committee shall transfer money from the
9 compensation to child pornography victims fund to a subaccount in
10 the compensation to victims of crime fund as necessary to award
11 compensation under Subsections (c)-(j) or to pay expenses related
12 to preventing crime.

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

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

23 (e) An award for compensation under this article must be in
24 an amount equal to the expenses incurred by the individual as a
25 result of the offense, including:

26 (1) medical services relating to physical,
27 psychiatric, or psychological care;

1 (2) physical and occupational therapy or
2 rehabilitation;

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

5 (4) lost income; and

6 (5) attorney's fees.

7 (f) The committee shall reduce an award under this article
8 by the amount of restitution received by or on behalf of the
9 individual under Article 42.037 and may reduce the award to the
10 extent that the applicable expenses are recouped from another
11 collateral source.

12 (g) The committee may provide for the payment of an award
13 under this article in a lump sum or in installments.

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

16 (i) The name of an individual awarded compensation under
17 this article and any other identifying information regarding that
18 individual are confidential and not subject to disclosure under
19 Chapter 552, Government Code.

20 (j) To the extent of any conflict between this article and
21 another article of this subchapter regarding conduct for which
22 compensation may be awarded, this article controls.

23 SECTION 4. The change in law made by this Act applies only
24 to a conviction for a criminal offense committed on or after the
25 effective date of this Act. A criminal offense committed before the
26 effective date of this Act is governed by the law in effect on the
27 date the offense was committed, and the former law is continued in

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1 effect for that purpose. For purposes of this section, a criminal
2 offense was committed before the effective date of this Act if any
3 element of the offense occurred before that date.

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