

SENATE AMENDMENTS

2nd Printing

By: Moody

H.B. No. 2159

A BILL TO BE ENTITLED

AN ACT

relating to requiring the payment of restitution as a condition of community supervision for offenses involving family violence committed in the presence of certain children.

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

SECTION 1. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0373 to read as follows:

Art. 42.0373. MANDATORY RESTITUTION FOR CHILD WITNESS OF FAMILY VIOLENCE. (a) If after a conviction or a grant of deferred adjudication a court places a defendant on community supervision for an offense involving family violence, as defined by Section 71.004, Family Code, the court shall make a finding as to whether:

(1) the offense was committed in the physical presence of, or in the same habitation or vehicle occupied by, a person younger than 15 years of age; and

(2) at the time of the offense, the defendant had knowledge or reason to know that the person younger than 15 years of age was physically present or occupied the same habitation or vehicle.

(b) If the court finds both issues described by Subsection (a) in the affirmative, the court shall order the defendant to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for a person described by Subsection (a)(1).

1 (c) The court shall, after considering the financial
2 circumstances of the defendant, specify in a restitution order
3 issued under Subsection (b) the manner in which the defendant must
4 pay the restitution.

5 (d) A restitution order issued under Subsection (b) may be
6 enforced by the state, or by a person or a parent or guardian of the
7 person named in the order to receive the restitution, in the same
8 manner as a judgment in a civil action.

9 (e) The court may hold a hearing, make findings of fact, and
10 amend a restitution order issued under Subsection (b) if the
11 defendant fails to pay the person named in the order in the manner
12 specified by the court.

13 SECTION 2. The changes in law made by this Act apply only to
14 an offense committed on or after the effective date of this Act. An
15 offense committed before the effective date of this Act is governed
16 by the law in effect on the date the offense was committed, and the
17 former law is continued in effect for that purpose. For purposes of
18 this section, an offense was committed before the effective date of
19 this Act if any element of the offense occurred before that date.

20 SECTION 3. This Act takes effect September 1, 2015.

ADOPTED

MAY 25 2015

Leta Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Josephina*

1 Amend H.B. No. 2159 (senate committee printing) in SECTION 1
2 of the bill as follows:

3 (1) In added Article 42.0373(a), Code of Criminal Procedure
4 (page 1, line 27), strike "make a finding as to" and substitute
5 "determine from the complaint, information, indictment, or other
6 charging instrument, the presentence report, or other evidence
7 before the court".

8 (2) In added Article 42.0373(b), Code of Criminal Procedure
9 (page 1, line 35), strike "finds" and substitute "determines".

10 (3) In added Article 42.0373(c), Code of Criminal Procedure
11 (page 1, line 43), after the underlined period, add the following:
12 The order must require restitution payments to be delivered in the
13 manner described by Article 42.037(g)(4)(iii).

14 (4) In added Article 42.0373, Code of Criminal Procedure
15 (page 1, between lines 51 and 52), after added Subsection (e), add
16 the following appropriately lettered subsection:

17 () A determination under this article may not be entered as
18 an affirmative finding in the judgment for the offense for which the
19 defendant was placed on community supervision.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 26, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2159 by Moody (Relating to requiring the payment of restitution as a condition of community supervision for offenses involving family violence committed in the presence of certain children.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure regarding the payment of restitution as a condition of community supervision for offenses involving family violence committed in the presence of a child under the age of 15. The bill would require the court to determine the existence of a child witness from the charging instrument or other evidence before the court; order restitution for the payment of medical, psychiatric, and psychological care for the child witness, and specify manner of payment. The bill would consider the restitution order as a civil action for purposes of enforcement and would permit the court to modify the restitution order in a subsequent hearing. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts

LBB Staff: UP, KJo, ESi, GDz

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 20, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2159 by Moody (Relating to requiring the payment of restitution as a condition of community supervision for offenses involving family violence committed in the presence of certain children.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure regarding the payment of restitution as a condition of community supervision for offenses involving family violence committed in the presence of a child under the age of 15. The bill would require the court to make findings regarding the existence of a child witness; order restitution for the payment of medical, psychiatric, and psychological care for the child witness, and specify manner of payment. The bill would consider the restitution order as a civil action for purposes of enforcement and would permit the court to modify the restitution order in a subsequent hearing. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts

LBB Staff: UP, KJo, ESi, GDz

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 5, 2015

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2159 by Moody (Relating to requiring the payment of restitution as a condition of community supervision for offenses involving family violence committed in the presence of certain children.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure regarding the payment of restitution as a condition of community supervision for offenses involving family violence committed in the presence of a child under the age of 15. The bill would require the court to make findings regarding the existence of a child witness; order restitution for the payment of medical, psychiatric, and psychological care for the child witness, and specify manner of payment. The bill would consider the restitution order as a civil action for purposes of enforcement and would permit the court to modify the restitution order in a subsequent hearing. Based on the analysis of the Office of Court Administration, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

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