By:  Metcalf (Senate Sponsor - Zaffirini) H.B. No. 1221

(In the Senate - Received from the House April 26, 2023; April 26, 2023, read first time and referred to Committee on Criminal Justice; May 11, 2023, reported favorably by the following vote: Yeas 6, Nays 0; May 11, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Flores          X

Bettencourt               X

Hinojosa        X

Huffman         X

King            X

Miles           X

A BILL TO BE ENTITLED

AN ACT

relating to authorizing the comptroller to release a reported owner's unclaimed property to the owner's crime victim in certain circumstances and payment by the Texas Department of Criminal Justice of certain amounts owed by an inmate.

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

SECTION 1.  Chapter 493, Government Code, is amended by adding Section 493.035 to read as follows:

Sec. 493.035.  UNCLAIMED PROPERTY CLAIMS FILED ON BEHALF OF CRIME VICTIMS. (a) The department shall file a claim for unclaimed property under Section 74.501, Property Code, on behalf of a victim of a criminal offense if the reported owner of the unclaimed property:

(1)  was finally convicted of the criminal offense in this state; and

(2)  based on the final conviction:

(A)  was ordered to pay criminal restitution to the victim; and

(B)  on the date the claim is submitted, is confined in a facility operated by or under contract with the department.

(b)  The department shall quarterly send to the comptroller a data set regarding confined inmates to initiate the filing and facilitate the approval of the claims submitted under Subsection (a).

(c)  The department must file a claim under this section only if the department has:

(1)  received notification from a court under Section 501.014(e); and

(2)  confirmed with the county the amount of outstanding restitution owed before filing the claim if the department finds the confirmation to be necessary.

(d)  The department may adopt rules necessary to administer this section.

SECTION 2.  Section 501.014, Government Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:

(e)  On notification by a court, the department shall withdraw from an inmate's account any amount the inmate is ordered to pay by order of the court under this subsection. On receipt of a valid court order requiring an inmate to pay child support, the department shall withdraw the appropriate amount from the inmate's account under this subsection, regardless of whether the court order is provided by the court or another person. The department shall make a payment under this subsection [~~as ordered by the court~~] to either the court or the party specified in the court order. The department is not liable for withdrawing or failing to withdraw money or making payments or failing to make payments under this subsection. The department shall make withdrawals and payments from an inmate's account under this subsection according to the following schedule of priorities:

(1)  as payment in full for all orders for child support;

(2)  as payment in full for all orders for restitution;

(3)  as payment in full for all orders for reimbursement of the Health and Human Services Commission for financial assistance provided for the child's health needs under Chapter 31, Human Resources Code, to a child of the inmate;

(4)  as payment in full for all orders for court fees and costs;

(5)  as payment in full for all orders for fines; and

(6)  as payment in full for any other court order, judgment, or writ.

(e-1)  Notification from a court under Subsection (e) of an order for restitution must specify the amount of restitution owed on the date of notification.

SECTION 3.  Section 74.501, Property Code, is amended by amending Subsection (e) and adding Subsection (g) to read as follows:

(e)  Except as provided by Subsection (d)(7), [~~or~~] (f), or (g) or Section 551.051, Estates Code, the comptroller may not pay to the following persons a claim to which this section applies:

(1)  a creditor, a judgment creditor, a lienholder, or an assignee of the reported owner or of the owner's heirs;

(2)  a person holding a power of attorney from the reported owner or the owner's heirs; or

(3)  a person attempting to make a claim on behalf of a corporation that was previously forfeited, dissolved, or terminated, if the comptroller finds that:

(A)  the corporation was revived for the purpose of making a claim under this section; and

(B)  the person submitting the claim was not an authorized representative of the corporation at the time of the corporation's forfeiture, dissolution, or termination.

(g)  The comptroller may approve a claim for unclaimed property that complies with Section 493.035, Government Code.

SECTION 4.  Article 42.037, Code of Criminal Procedure, is amended by adding Subsection (x) to read as follows:

(x)  A county shall accept a restitution payment received from the Texas Department of Criminal Justice under Section 493.035, Government Code, and forward the payment to the victim or other person eligible for restitution under this article, including the compensation to victims of crime fund. The county shall return to the department any amount in excess of the balance owed to the victim.

SECTION 5.  The change in law made by this Act applies only to a claim filed under Section 74.501, Property Code, on or after the effective date of this Act. A claim filed under that section before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6.  This Act takes effect September 1, 2023.

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