

1 HB180
2 201282-2
3 By Representatives Robertson, Estes, Stringer, Simpson,
4 Reynolds, Polizos and Ball
5 RFD: Judiciary
6 First Read: 19-MAR-19

1
2 ENROLLED, An Act,

3 Relating to crime victims' compensation; to repeal
4 Division 2 (commencing with Section 41-9-80) and to add
5 Division 2A (commencing with Section 41-9-80.1) to Article 4
6 of Chapter 9 of the Code of Alabama 1975; to establish Lisa's
7 Law; to provide a procedure for collecting certain funds and
8 property paid to or intended to be paid to an individual
9 convicted of certain crimes; to provide notice requirements to
10 the payor of the funds or property; to authorize certain crime
11 victims or the Securities Commission, on behalf of the crime
12 victims, to apply for civil compensation and other civil
13 remedies arising from the commission of the crime.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Division 2 (commencing with Section
16 41-9-80) of Article 4 of Chapter 9 of Title 41 of the Code of
17 Alabama 1975, is repealed.

18 Section 2. Division 2A (commencing with Section
19 41-9-80.1) is added to Article 4 of Chapter 9 of Title 41 of
20 the Code of Alabama 1975, to read as follows:

21 Division 2A. Victims of Crimes.

22 §41-9-80.1.

23 This division shall be known and may be cited as
24 Lisa's Law.

25 §41-9-80.2.

1 As used in this division, the following terms shall
2 have the following meanings:

3 (1) CONVICTED INDIVIDUAL. An individual convicted of
4 a specified crime or a representative of the individual.

5 (2) EARNED INCOME. Income derived from an
6 individual's own labor or active participation in a business.
7 The term does not include income from dividends or
8 investments.

9 (3) FUNDS OF A CONVICTED INDIVIDUAL. Funds and
10 property received from any source by a convicted individual.
11 The term includes funds that a superintendent, sheriff,
12 municipal official, or other correctional official receives on
13 behalf of a convicted individual and deposits into the
14 individual's inmate or prisoner account to the credit of the
15 individual. The term does not include funds from child support
16 payments and earned income, except any income defined as
17 profits from a crime under subdivision (5).

18 (4) PERSON. An individual, corporation, estate,
19 partnership, association, or other legal entity, or
20 representative of such. The term does not include the state, a
21 political subdivision of the state, or an individual who is a
22 superintendent, sheriff, municipal official, or other
23 correctional official required to give notice by this
24 division.

25 (5) PROFITS FROM A CRIME. Any of the following:

1 a. Property or income of a convicted individual that
2 the individual obtained or generated from the commission of
3 the crime of which the individual was convicted.

4 b. Property or income that a convicted individual
5 obtained or generated from the sale, conversion, or exchange
6 of proceeds of a specified crime of which the individual was
7 convicted.

8 c. Property or income generated as a result of
9 having committed a specified crime of which a convicted
10 individual was convicted, including through the use of unique
11 knowledge obtained during the commission of, or in preparation
12 for, the commission of a specified crime, as well as any
13 property or income obtained or generated from the sale,
14 conversion, or exchange of the property.

15 ~~d. Property obtained by or income generated from the~~
16 ~~reenactment of a specified crime, by way of a movie, book,~~
17 ~~magazine, radio, or television presentation, live~~
18 ~~entertainment, or from any other written or verbal expression~~
19 ~~of the individual's thoughts, feelings, opinions, or emotions~~
20 ~~regarding the crime.~~

21 (6) REPRESENTATIVE. A person who represents or
22 stands in the place of another person, including, but not
23 limited to, an agent, assignee, attorney, guardian, committee,
24 conservator, partner, receiver, administrator, executor or

1 heir of another person, third-party beneficiary, or parent of
2 a minor.

3 (7) SECURITIES COMMISSION. The Alabama Securities
4 Commission.

5 (8) SPECIFIED CRIME. A felony offense involving
6 moral turpitude, as described in Section 17-3-30.1, where the
7 victim was a resident of this state at the time of the offense
8 or the act or acts constituting the offense occurred in whole
9 or in part of this state.

10 (9) VICTIM OF A CRIME. Any of the following:

11 a. A victim of a specified crime.

12 b. If the victim of a specified crime is deceased:

13 1. The surviving spouse of the victim.

14 2. If there is no surviving spouse, the next
15 surviving person or surviving group of people in the order of
16 intestate succession as listed in Section 43-8-42.

17 §41-9-80.3.

18 (a) A person that knowingly contracts for, pays for,
19 or agrees to pay to a convicted individual profits from the
20 crime or to the representative of the individual, shall give
21 written notice to the Securities Commission of the payment or
22 obligation to pay as soon as practicable after discovering
23 that the payment or intended payment constitutes profits from
24 a crime or funds of a convicted individual.

1 (b) (1) A superintendent, sheriff, municipal
2 official, or other correctional official shall also give
3 written notice to the Securities Commission of any payment or
4 obligation to pay subject to the notice requirements of
5 subsection (a) if he or she receives or will receive funds,
6 the combined or aggregate value of which exceeds five thousand
7 dollars (\$5,000), on behalf of a convicted individual who is
8 serving a sentence with the Alabama Department of Corrections
9 or is otherwise confined at a local correctional facility and
10 deposits or will deposit the funds into an inmate or prisoner
11 account to the credit of the individual.

12 (2) Whenever the state or a political subdivision of
13 the state makes a payment or has an obligation to pay funds of
14 a convicted individual and the value, combined value, or
15 aggregate value of the funds exceeds or will exceed five
16 thousand dollars (\$5,000), the state or political subdivision
17 of the state shall also give written notice to the Securities
18 Commission.

19 (3) In all other instances where the payment or
20 obligation to pay involves funds of a convicted individual and
21 the value, combined value, or aggregate value of the funds
22 exceeds or will exceed five thousand dollars (\$5,000), the
23 convicted individual who receives or will receive the funds,
24 or the representative of the individual, shall give written
25 notice to the Securities Commission.

1 §41-9-80.4.

2 (a) Notwithstanding any other provision of law to
3 the contrary, a victim of a crime may bring a civil action in
4 a court of competent jurisdiction to recover restitution or
5 money damages, or both, from the convicted individual who
6 committed the crime or the individual's representative.

7 (b) Notwithstanding any other provision of law to
8 the contrary, a judgment obtained pursuant to this section is
9 not subject to execution or enforcement against the first one
10 thousand dollars (\$1,000) deposited into an inmate or prisoner
11 account to the credit of an inmate.

12 (c) In actions seeking relief pursuant to subsection
13 (a), the claim must not be considered as having accrued until
14 (1) the actual discovery of the profits or funds, or (2)
15 actual notice received from or published by the Securities
16 Commission of the discovery of the profits or funds, whichever
17 occurs first, after which a victim of a crime must have five
18 years within which to prosecute the action.

19 §41-9-80.5.

20 Upon filing an action pursuant to subsection (a) of
21 Section 41-9-80.4, the victim of a crime shall give notice to
22 the Securities Commission of the filing by delivering a copy
23 of the summons and complaint to the Securities Commission.

24 §41-9-80.6.

1 (a) The Securities Commission, acting on behalf of a
 2 victim of a crime, may apply for any and all provisional
 3 remedies that are also otherwise available to the victim.

4 (b) The provisional remedies of attachment,
 5 injunction, receivership, and notice of pendency available to
 6 the victim of the crime under existing law and the Alabama
 7 Rules of Civil Procedure shall also be available to the
 8 Securities Commission in all actions under this division.

9 (c) Upon the filing of a motion for a provisional
 10 remedy, the moving party shall state whether any other
 11 provisional remedy has previously been sought in the same
 12 action against the same defendant. The court may require the
 13 moving party to elect between those remedies to which it would
 14 otherwise be entitled.

15 §41-9-80.7.

16 (a) If a person knowingly and willfully fails to
 17 give notice in violation of Section 41-9-80.3, the Securities
 18 Commission, after notice and hearing pursuant to the Alabama
 19 Administrative Procedure Act, may impose an assessment of up
 20 to the amount of the payment or obligation to pay and a civil
 21 penalty of up to one thousand dollars (\$1,000) or ten percent
 22 of the payment or obligation to pay, whichever is greater.

23 (b) (1) If a person fails to pay the assessment and
 24 civil penalty imposed by subsection (a), the assessment and
 25 civil penalty may be recovered from the person by an action

1 brought by the Securities Commission in any court of competent
2 jurisdiction.

3 (2) Notwithstanding any provision of law to the
4 contrary, an alleged failure by a convicted individual to give
5 notice under Section 41-9-80.3 may not result in proceedings
6 for an alleged violation of the conditions of probation,
7 parole, conditional release, post release supervision, or
8 supervised release, unless all of the following occur:

9 a. A victim of a crime makes one or more claims
10 pursuant to this division.

11 b. The Securities Commission imposes an assessment
12 or penalty, or both, against the convicted individual pursuant
13 to this division.

14 c. The convicted individual fails to pay the total
15 amount of the assessment or penalty within 60 days of the
16 imposition of the assessment or penalty.

17 (c) The Securities Commission may recover, from any
18 assessment or civil penalty imposed under subsection (a), the
19 actual cost of investigation, negotiation, settlement, or
20 prosecution of the violation for which penalty has been
21 imposed. The expenses may include personnel costs, travel, per
22 diem expenses, and any cost associated with retaining
23 non-employee personnel to assist in collection or prosecution
24 of the action.

25 §41-9-80.8.

1 (a) The Securities Commission, or any person
2 designated by the Securities Commission, may do any of the
3 following:

4 (1) Make public or private investigations, within or
5 outside of the state, as deemed necessary to aid in the
6 enforcement of this division.

7 (2) Require or permit any person to file a statement
8 in writing, under oath or otherwise, as the Security
9 Commission may determine, as to all facts and circumstances
10 relating to the matter being investigated.

11 (3) Publish information concerning a violation of
12 this division.

13 (4) Administer oaths and affirmations, subpoena
14 witnesses, compel attendance, take evidence, and require the
15 production of any books, papers, correspondence, memoranda,
16 agreements, or other documents or records, in whatever form
17 they may exist, that the Securities Commission deems relevant
18 or material to an investigation.

19 (b) If a person fails to comply with a subpoena
20 issued or refuses to appear, the Securities Commission may
21 seek enforcement of the subpoena or order to appear in a court
22 of competent jurisdiction.

23 §41-9-80.9.

24 The Securities Commission may retain any person or
25 entity as required to implement and administer this division.

1 Section 3. This act shall become effective
2 immediately upon its passage and approval by the Governor, or
3 upon its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 16-APR-19.

Jeff Woodard
Clerk

Senate	31-MAY-19	Amended and Passed
House	31-MAY-19	Concurred in Senate Amendment