

1-1 By: Taylor of Collin S.B. No. 1010
 1-2 (In the Senate - Filed March 6, 2015; March 10, 2015, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 May 18, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 0; May 18, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15			X	
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1010 By: Schwertner

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the use of money paid as restitution to or on behalf of
 1-22 certain individuals depicted in child pornography.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Article 42.037, Code of Criminal Procedure, is
 1-25 amended by adding Subsection (r) to read as follows:

1-26 (r) The court shall order a defendant convicted of an
 1-27 offense under Section 43.26, Penal Code, to make restitution to:

1-28 (1) an individual who as a child younger than 18 years
 1-29 of age was depicted in the visual material, in an amount equal to
 1-30 the expenses incurred by the individual as a result of the offense,
 1-31 including:

1-32 (A) medical services relating to physical,
 1-33 psychiatric, or psychological care;

1-34 (B) physical and occupational therapy or
 1-35 rehabilitation;

1-36 (C) necessary transportation, temporary housing,
 1-37 and child care expenses;

1-38 (D) lost income; and

1-39 (E) attorney's fees; or

1-40 (2) the compensation to child pornography victims fund
 1-41 under Article 56.55 to the extent that:

1-42 (A) the fund has paid compensation to or on
 1-43 behalf of the individual; or

1-44 (B) the court is unable to identify an individual
 1-45 who as a child was depicted in the visual material, in an amount
 1-46 determined by the court after considering:

1-47 (i) the average amount of the expenses
 1-48 incurred by, and restitution ordered to, individuals in other
 1-49 similar cases involving a conviction for an offense under Section
 1-50 43.26, Penal Code; and

1-51 (ii) other factors the court considers
 1-52 appropriate.

1-53 SECTION 2. Article 56.54(b), Code of Criminal Procedure, is
 1-54 amended to read as follows:

1-55 (b) Except as provided by Subsections (h), (i), (j), and (k)
 1-56 and Articles [Article] 56.541 and 56.55, the compensation to
 1-57 victims of crime fund may be used only by the attorney general for
 1-58 the payment of compensation to claimants or victims under this
 1-59 subchapter. For purposes of this subsection, compensation to
 1-60 claimants or victims includes money allocated from the fund to the

2-1 Crime Victims' Institute created by Section 96.65, Education Code,
2-2 for the operation of the institute and for other expenses in
2-3 administering this subchapter. The institute shall use money
2-4 allocated from the fund only for the purposes of Sections 96.65,
2-5 96.651, and 96.652, Education Code.

2-6 SECTION 3. Subchapter B, Chapter 56, Code of Criminal
2-7 Procedure, is amended by adding Article 56.55 to read as follows:

2-8 Art. 56.55. COMPENSATION TO CHILD PORNOGRAPHY VICTIMS FUND;
2-9 PAYMENT OF AWARDS OR EXPENSES. (a) The compensation to child
2-10 pornography victims fund is an account in the general revenue fund.
2-11 Money in the account may be used only to:

2-12 (1) award compensation under this article; or
2-13 (2) provide grants related to preventing child
2-14 pornography and related offenses, including trafficking of
2-15 persons.

2-16 (b) The attorney general shall:

2-17 (1) adopt rules governing the administration of the
2-18 compensation to child pornography victims fund, including rules
2-19 establishing procedures for the application, review, and award of
2-20 compensation or the issuance of a grant under this article; and

2-21 (2) notwithstanding any other provision of this
2-22 subchapter, transfer money from the compensation to child
2-23 pornography victims fund to a subaccount in the compensation to
2-24 victims of crime fund as necessary to award compensation or provide
2-25 a grant under this article.

2-26 (c) The attorney general shall award compensation to an
2-27 individual who as a child younger than 18 years of age was depicted
2-28 in visual material constituting the basis for one or more
2-29 convictions under Section 43.26, Penal Code, if the attorney
2-30 general finds by a preponderance of the evidence that sufficient
2-31 grounds exist for compensation under this article.

2-32 (d) An applicant for compensation under this article must
2-33 apply in writing on a form prescribed by the attorney general. The
2-34 applicant is not required to file an application under Article
2-35 56.36 to receive compensation under this article.

2-36 (e) An award for compensation under this article must be in
2-37 an amount equal to the expenses incurred by the individual as a
2-38 result of the offense, including:

2-39 (1) medical services relating to physical,
2-40 psychiatric, or psychological care;

2-41 (2) physical and occupational therapy or
2-42 rehabilitation;

2-43 (3) necessary transportation, temporary housing, and
2-44 child care expenses;

2-45 (4) loss of past earnings; and

2-46 (5) attorney's fees for assistance in obtaining
2-47 compensation under this article.

2-48 (f) The attorney general shall reduce an award under this
2-49 article by the amount of restitution received by or on behalf of the
2-50 individual under Article 42.037 and may reduce the award to the
2-51 extent that the applicable expenses are recouped from another
2-52 collateral source, including compensation awarded under Article
2-53 56.34.

2-54 (g) The attorney general may provide for the payment of an
2-55 award under this article in a lump sum or in installments.

2-56 (h) The attorney general by rule may limit the amount of
2-57 award that is payable to an individual under this article.

2-58 (i) The attorney general may use the compensation to victims
2-59 of crime fund to pay expenses associated with the administration of
2-60 the compensation to the child pornography victims fund under this
2-61 article.

2-62 (j) The attorney general may delegate a power, duty, or
2-63 responsibility given to the attorney general under this article to
2-64 a person in the attorney general's office.

2-65 (k) The name of an individual awarded compensation under
2-66 this article and any other identifying information regarding that
2-67 individual are confidential and not subject to disclosure under
2-68 Chapter 552, Government Code.

2-69 (l) To the extent of any conflict between this article and

3-1 another article of this subchapter regarding conduct for which
3-2 compensation may be awarded, this article controls.

3-3 SECTION 4. The change in law made by this Act applies only
3-4 to a conviction for a criminal offense committed on or after the
3-5 effective date of this Act. A criminal offense committed before the
3-6 effective date of this Act is governed by the law in effect on the
3-7 date the offense was committed, and the former law is continued in
3-8 effect for that purpose. For purposes of this section, a criminal
3-9 offense was committed before the effective date of this Act if any
3-10 element of the offense occurred before that date.

3-11 SECTION 5. This Act takes effect September 1, 2015.

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