

1-1 By: Geren (Senate Sponsor - Campbell) H.B. No. 1866
 1-2 (In the Senate - Received from the House May 8, 2017;
 1-3 May 8, 2017, read first time and referred to Committee on Criminal
 1-4 Justice; May 17, 2017, reported favorably by the following vote:
 1-5 Yeas 8, Nays 0; May 17, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
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 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to compensation and restitution to crime victims and the
 1-20 disposition of unclaimed restitution payments; providing for an
 1-21 administrative penalty; authorizing a fee.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Article 56.54, Code of Criminal Procedure, is
 1-24 amended by amending Subsections (a), (d), (f), (g), and (l) and
 1-25 adding Subsection (m-1) to read as follows:

1-26 (a) The compensation to victims of crime fund is ~~[and the~~
 1-27 ~~compensation to victims of crime auxiliary fund are]~~ in the state
 1-28 treasury.

1-29 (d) The attorney general may not make compensation payments
 1-30 in excess of the amount of money available in the compensation to
 1-31 victims of crime fund ~~[from the combined funds].~~

1-32 (f) The office of the attorney general is authorized to
 1-33 accept gifts, grants, and donations to be credited to the
 1-34 compensation to victims of crime fund ~~[and compensation to victims~~
 1-35 ~~of crime auxiliary fund]~~ and shall file annually with the governor
 1-36 and the presiding officer of each house of the legislature a
 1-37 complete and detailed written report accounting for all gifts,
 1-38 grants, and donations received and disbursed, used, or maintained
 1-39 by the office for the attorney general that are credited to the fund
 1-40 ~~[these funds].~~

1-41 (g) Money in the compensation to victims of crime fund ~~[or~~
 1-42 ~~in the compensation to victims of crime auxiliary fund]~~ may be used
 1-43 only as provided by this subchapter and is not available for any
 1-44 other purpose. Section 403.095, Government Code, does not apply to
 1-45 the fund.

1-46 (l) As appropriated by the legislature, the ~~[The]~~ attorney
 1-47 general may use the compensation to victims of crime auxiliary fund
 1-48 to cover costs incurred by the attorney general in administering
 1-49 the address confidentiality program established under Subchapter
 1-50 C.

1-51 (m-1) Notwithstanding Subsection (m), the attorney general
 1-52 may not transfer money under that subsection during a fiscal year
 1-53 beginning September 1, 2017, or September 1, 2018. This subsection
 1-54 expires September 1, 2019.

1-55 SECTION 2. Section 76.013, Government Code, is amended by
 1-56 amending Subsections (a), (b), and (c) and adding Subsections
 1-57 (b-1), (b-2), and (b-3) to read as follows:

1-58 (a) If a judge requires a defendant to make restitution to a
 1-59 victim of the defendant's offense, and a restitution payment is
 1-60 received by a department from the defendant for transmittal to a
 1-61 victim of the offense, the department ~~[that receives the payment~~

2-1 ~~for disbursement to the victim]~~ shall immediately deposit the
 2-2 payment in an interest-bearing account in the county treasury as
 2-3 required by Section 140.003(f), Local Government Code.

2-4 (b) If a department receives an initial restitution payment
 2-5 [is received by a department], the department shall immediately
 2-6 [shall] notify the victim [of that fact] by certified mail, mailed
 2-7 to the last known address of the victim, that the restitution
 2-8 payment has been received and shall inform the victim of how a claim
 2-9 for payment of restitution can be made. [If a victim then makes a
 2-10 claim for payment, the department promptly shall remit the payment
 2-11 to the victim. A department is obligated to make a good faith
 2-12 effort to locate and notify a victim that an unclaimed payment
 2-13 exists. The department satisfies the good faith requirement under
 2-14 this subsection by sending to the victim by certified mail on any
 2-15 one occasion during the period the defendant is required to make
 2-16 payments a notice that the victim is entitled to an unclaimed
 2-17 payment. Not earlier than the fifth anniversary of the date on
 2-18 which the department mails notice under this subsection, if the
 2-19 victim has not made a claim for payment, the department shall
 2-20 transfer from the interest-bearing account to the comptroller all
 2-21 payments received. After making an initial transfer of payments to
 2-22 the comptroller under this subsection, the department, not later
 2-23 than the 121st day after the date the department receives a
 2-24 subsequent payment, shall transfer the subsequent payment to the
 2-25 comptroller. The department shall deduct five percent of the
 2-26 payment or subsequent payment as a collection fee and deduct any
 2-27 interest accrued on the payment or subsequent payment before
 2-28 transferring the payment to the comptroller under this subsection.
 2-29 The comptroller shall deposit the payment in the state treasury to
 2-30 the credit of the compensation to victims of crime auxiliary fund.]

2-31 (b-1) If a victim makes a claim for payment of restitution
 2-32 with the department, the department shall promptly remit to the
 2-33 victim all restitution payments received by the department from the
 2-34 defendant for transmittal to the victim.

2-35 (b-2) If a victim who is entitled to restitution does not
 2-36 make a claim for payment before the fifth anniversary of the date
 2-37 the department receives the initial restitution payment or if,
 2-38 after the victim makes a claim for payment, the department is unable
 2-39 to locate the victim for a period of five years after the date the
 2-40 department last made a payment to the victim, any unclaimed
 2-41 restitution payments being held by the department for payment to
 2-42 the victim are presumed abandoned. The department shall report and
 2-43 deliver to the comptroller all unclaimed restitution payments
 2-44 presumed abandoned under this section, less a collection fee of one
 2-45 and one-half percent, in the manner provided by Chapter 77,
 2-46 Property Code.

2-47 (b-3) If on March 1 a department is not holding unclaimed
 2-48 restitution payments that are presumed abandoned under this
 2-49 section, the department shall file a property report under Section
 2-50 77.051, Property Code, that certifies that the department is not
 2-51 holding any unclaimed restitution payments that are presumed
 2-52 abandoned under this section.

2-53 (c) The collection fee under Subsection (b-2) [(b)] and the
 2-54 accrued interest under Subsection [Subsections] (a) [and (b)] shall
 2-55 be deposited in the special fund of the county treasury provided by
 2-56 Section 509.011 to be used for the same purposes for which state aid
 2-57 may be used under that section. [The department has a maximum of
 2-58 121 days after the five-year expiration date to transfer the funds
 2-59 to the comptroller's office. Failure to comply with the 121-day
 2-60 deadline will result in a five percent collection fee penalty
 2-61 calculated from the total deposit and all interest attributable to
 2-62 the unclaimed funds.]

2-63 SECTION 3. Section 508.322, Government Code, is amended by
 2-64 amending Subsection (e) and adding Subsection (f) to read as
 2-65 follows:

2-66 (e) If a victim who is entitled to restitution does not make
 2-67 a claim for payment before the fifth anniversary of the date the
 2-68 department receives the initial restitution payment or if, after
 2-69 the victim makes a claim for payment, the department is unable to

3-1 locate the victim for a period of five years after the date the
 3-2 department last made a payment to the victim, any unclaimed
 3-3 restitution payments being held by the department for payment to
 3-4 the victim are presumed abandoned. The department shall report and
 3-5 deliver to the comptroller all unclaimed restitution payments
 3-6 presumed abandoned under this section in the manner provided by
 3-7 Chapter 77, Property Code [Money that remains unclaimed shall be
 3-8 transferred to the compensation to victims of crime auxiliary fund
 3-9 on the fifth anniversary of the date the money was deposited to the
 3-10 credit of the releasee restitution fund].

3-11 (f) If on March 1 a department is not holding unclaimed
 3-12 restitution payments that are presumed abandoned under this
 3-13 section, the department shall file a property report under Section
 3-14 77.051, Property Code, that certifies that the department is not
 3-15 holding any unclaimed restitution payments that are presumed
 3-16 abandoned under this section.

3-17 SECTION 4. Title 6, Property Code, is amended by adding
 3-18 Chapter 77 to read as follows:

3-19 CHAPTER 77. REPORT, DELIVERY, AND CLAIMS PROCESS FOR
 3-20 UNCLAIMED RESTITUTION PAYMENTS
 3-21 SUBCHAPTER A. APPLICABILITY

3-22 Sec. 77.001. APPLICABILITY. This chapter applies to
 3-23 unclaimed restitution payments that are presumed abandoned under
 3-24 Section 76.013 or 508.322, Government Code.

3-25 SUBCHAPTER B. PROPERTY REPORT

3-26 Sec. 77.051. PROPERTY REPORT. (a) Notwithstanding the
 3-27 confidentiality provisions of Chapters 57, 57A, 57B, and 57D, Code
 3-28 of Criminal Procedure, each holder who on March 1 holds an unclaimed
 3-29 restitution payment that is presumed abandoned under Section 76.013
 3-30 or 508.322, Government Code, shall file a property report with the
 3-31 comptroller on or before the following July 1. The comptroller may
 3-32 prescribe the form to be used for the report required by this
 3-33 section and may require the report to be filed electronically.

3-34 (b) The property report must include, if known by the
 3-35 holder:

3-36 (1) the name, social security number, driver's license
 3-37 or state identification number, e-mail address, and last known
 3-38 address of the victim who, from the records of the holder, is
 3-39 entitled to the unclaimed restitution payment;

3-40 (2) the cause number of the case in which a judge
 3-41 ordered a defendant to pay restitution to the victim, the amount of
 3-42 restitution ordered, and the balance owed to the victim;

3-43 (3) the date of the last transaction with the victim
 3-44 concerning the restitution payments; and

3-45 (4) other information that the comptroller requires to
 3-46 be disclosed as necessary for the administration of this chapter.

3-47 (c) A holder who is required by Subsection (a) to file a
 3-48 report in any year shall file a report each successive year
 3-49 thereafter. If a person required to file a report under this
 3-50 subsection is not holding any restitution payments that are
 3-51 presumed abandoned under Section 76.013 or 508.322, Government
 3-52 Code, the person shall certify that the person is not holding any
 3-53 restitution payments that are presumed abandoned under those
 3-54 sections.

3-55 Sec. 77.052. NOTICE BY HOLDER REQUIRED. A holder who on
 3-56 March 1 holds an unclaimed restitution payment that is presumed
 3-57 abandoned under Section 76.013 or 508.322, Government Code, shall,
 3-58 on or before the following May 1, mail to the last known address of
 3-59 the victim entitled to the unclaimed restitution payment written
 3-60 notice stating that:

3-61 (1) the holder is holding the restitution payment to
 3-62 which the victim is entitled; and

3-63 (2) the holder may be required to deliver the
 3-64 restitution payment to the comptroller on or before July 1 if the
 3-65 victim does not claim the restitution payment.

3-66 Sec. 77.053. SIGNED STATEMENT. (a) The person preparing a
 3-67 property report required by this chapter shall provide with each
 3-68 copy of the report a statement signed by the holder's chief fiscal
 3-69 officer, as designated by the holder. The signature required by

4-1 this section may be in an electronic or other form prescribed by the
 4-2 comptroller and shall have the same effect as an original
 4-3 signature.

4-4 (b) The statement must include the following sentence:

4-5 "This report contains a full and complete list of all
 4-6 restitution payments held by the undersigned that, from the
 4-7 knowledge and records of the undersigned, are abandoned under the
 4-8 laws of the State of Texas."

4-9 Sec. 77.054. CONFIDENTIALITY OF PROPERTY REPORT. (a) The
 4-10 property report filed with the comptroller under Section 77.051 is
 4-11 confidential and is not subject to disclosure under Chapter 552,
 4-12 Government Code.

4-13 (b) The social security number, driver's license or state
 4-14 identification number, and address of a victim are confidential and
 4-15 are not subject to disclosure under Chapter 552, Government Code.
 4-16 For the purposes of this subsection, the victim's address includes
 4-17 information that identifies a victim's place of residence or post
 4-18 office box but does not include the city or county in which the
 4-19 victim resides.

4-20 Sec. 77.055. EXCEPTION TO LIABILITY. (a) It is an
 4-21 exception to the application of Section 552.352, Government Code,
 4-22 that the comptroller or an officer or employee of the comptroller's
 4-23 office published or disclosed information in reliance on the report
 4-24 filed with the comptroller under Section 77.051.

4-25 (b) The comptroller or an officer or employee of the
 4-26 comptroller's office is immune from any civil liability for
 4-27 publishing or disclosing confidential information under this
 4-28 section if the comptroller, officer, or employee published or
 4-29 disclosed the information in reliance on the report filed with the
 4-30 comptroller under Section 77.051.

4-31 SUBCHAPTER C. NOTICE BY COMPTROLLER

4-32 Sec. 77.101. NOTICE. The comptroller may use one or more
 4-33 methods as necessary to provide the most efficient and effective
 4-34 notice to victims that the comptroller is holding unclaimed
 4-35 restitution payments that are subject to this chapter.

4-36 Sec. 77.102. PUBLICATION. Notwithstanding Section 77.054,
 4-37 the comptroller may publish on the Internet information regarding
 4-38 unclaimed restitution payments received by the comptroller, except
 4-39 that the comptroller may not publish information that identifies a
 4-40 person as a victim or information that identifies a victim's
 4-41 address. For the purposes of this subsection, the victim's address
 4-42 includes information that identifies a victim's place of residence
 4-43 or post office box but does not include the city or county in which
 4-44 the victim resides.

4-45 SUBCHAPTER D. DELIVERY

4-46 Sec. 77.151. DELIVERY OF PROPERTY TO COMPTROLLER. Each
 4-47 holder who on March 1 holds an unclaimed restitution payment that is
 4-48 presumed abandoned under Section 76.013 or 508.322, Government
 4-49 Code, shall deliver the property to the comptroller on or before the
 4-50 following July 1 accompanied by the report required to be filed
 4-51 under Section 77.051.

4-52 Sec. 77.152. RESPONSIBILITY AFTER DELIVERY. (a) If an
 4-53 unclaimed restitution payment that is presumed abandoned under
 4-54 Section 76.013 or 508.322, Government Code, is reported and
 4-55 delivered to the comptroller, the state shall assume custody of the
 4-56 payment and responsibility for its safekeeping.

4-57 (b) A holder who delivers an unclaimed restitution payment
 4-58 to the comptroller in compliance with this chapter is relieved of
 4-59 all liability to the extent of the value of the payment delivered
 4-60 for any claim then existing, that may arise after delivery to the
 4-61 comptroller, or that may be made with respect to the payment.

4-62 (c) If the holder delivers an unclaimed restitution payment
 4-63 to the comptroller in good faith and, after delivery, a person
 4-64 claims the property from the holder, the attorney general shall, on
 4-65 written notice of the claim, defend the holder against the claim,
 4-66 and the holder shall be indemnified against any liability on the
 4-67 claim.

4-68 SUBCHAPTER E. CLAIM FOR DELIVERED PROPERTY

4-69 Sec. 77.201. CLAIM FILED WITH COMPTROLLER. (a) The

5-1 comptroller shall review the validity of each claim for an
 5-2 unclaimed restitution payment filed under this section.

5-3 (b) If the comptroller determines a claim for an unclaimed
 5-4 restitution payment is valid, the comptroller shall approve the
 5-5 claim. If a claim is approved under this section, the comptroller
 5-6 shall pay the claim.

5-7 (c) All claims to which this section applies must be filed
 5-8 in accordance with the procedures, contain the information, and be
 5-9 on forms prescribed by the comptroller.

5-10 (d) On receipt of a claim form and all necessary
 5-11 documentation as may be appropriate under the circumstances, the
 5-12 comptroller may approve the claim of:

5-13 (1) the victim;

5-14 (2) if the victim died testate:

5-15 (A) the appropriate legal beneficiaries of the
 5-16 victim as provided by the last will and testament of the victim that
 5-17 has been accepted into probate or filed as a muniment of title; or

5-18 (B) the executor of the victim's last will and
 5-19 testament who holds current letters testamentary;

5-20 (3) if the victim died intestate or is deceased and
 5-21 presumed intestate:

5-22 (A) the legal heirs of the victim as provided by
 5-23 Chapter 201, Estates Code; or

5-24 (B) the court-appointed administrator of the
 5-25 victim's estate, on behalf of the legal heirs of the victim;

5-26 (4) the legal heirs of the victim as established by an
 5-27 affidavit of heirship order signed by a judge of the county probate
 5-28 court or by a county judge;

5-29 (5) if the victim is a minor child or an adult who has
 5-30 been adjudged incompetent by a court of law, the parent or legal
 5-31 guardian of the child or adult;

5-32 (6) if the victim is a trust:

5-33 (A) the trustee, on behalf of the trust; or

5-34 (B) the beneficiaries of the trust, if the trust
 5-35 is dissolved;

5-36 (7) if the victim is a corporation:

5-37 (A) the president or chair of the board of
 5-38 directors of the corporation, on behalf of the corporation;

5-39 (B) any person who has been delegated legal
 5-40 authority to act on behalf of the corporation by the president or
 5-41 board of directors of the corporation; or

5-42 (C) a receiver appointed for the corporation;

5-43 (8) if the victim is a corporation that has been
 5-44 dissolved, liquidated, or otherwise terminated:

5-45 (A) the surviving shareholders of the
 5-46 corporation in proportion to their ownership of the corporation at
 5-47 the time of dissolution, liquidation, or termination;

5-48 (B) the corporation's bankruptcy trustee; or

5-49 (C) a receiver appointed for the corporation;

5-50 (9) if the victim is a state agency, the comptroller;

5-51 or

5-52 (10) any other person that is entitled to receive the
 5-53 unclaimed restitution payment under other law or comptroller
 5-54 policy.

5-55 (e) Except as provided by Subsections (f) and (g), the
 5-56 comptroller may not approve the claim of or pay a claim to the
 5-57 following persons:

5-58 (1) a creditor, a judgment creditor, a lienholder, or
 5-59 an assignee of the victim or of any other person entitled to receive
 5-60 an unclaimed restitution payment under this section;

5-61 (2) a receiver, if the receiver is appointed at the
 5-62 request of a person the comptroller may not pay under Subdivision
 5-63 (1);

5-64 (3) a person attempting to make a claim on behalf of a
 5-65 trust or corporation that has previously been dissolved or
 5-66 terminated, if it appears the trust or corporation was revived for
 5-67 the purpose of making a claim under this section and the person
 5-68 submitting the claim was not an authorized representative of the
 5-69 corporation or trust at the time of the dissolution or termination;

6-1 or

6-2 (4) a person holding a power of attorney, if the person
 6-3 holding a power of attorney is a person the comptroller may not pay
 6-4 under this subsection.

6-5 (f) The comptroller may approve a claim for child support
 6-6 arrears owed by the victim and reflected in a child support lien
 6-7 notice that complies with Section 157.313, Family Code. A claim
 6-8 under this subsection may be submitted by the lienholder.

6-9 (g) The comptroller may approve a claim for debts owed by
 6-10 the victim to the state or any state agency. A claim under this
 6-11 subsection may be submitted by the attorney general or the
 6-12 comptroller on behalf of the state or state agency.

6-13 Sec. 77.202. CLAIMS NOT ASSIGNABLE. Notwithstanding
 6-14 Section 9.406(f), Business & Commerce Code, an interest in a claim
 6-15 under this chapter may not be assigned.

6-16 Sec. 77.203. CLAIM FILED WITH HOLDER. (a) If a claim for an
 6-17 unclaimed restitution payment is filed with a holder under this
 6-18 section and the holder determines in good faith that the claim is
 6-19 valid, the holder may pay the amount of the claim.

6-20 (b) The comptroller may reimburse the holder for a valid
 6-21 claim paid under this section.

6-22 (c) The request from a holder for reimbursement must be
 6-23 filed in accordance with procedures and on forms prescribed by the
 6-24 comptroller and may not exceed the amount previously reported and
 6-25 delivered by the holder to the comptroller.

6-26 (d) The comptroller may not reimburse a holder for a claim
 6-27 paid to a person the comptroller is not permitted to pay under
 6-28 Section 77.201(e).

6-29 (e) The liability of the comptroller to reimburse a holder
 6-30 under this section is limited to the extent of the property
 6-31 delivered under this chapter and remaining in the possession of the
 6-32 comptroller at the time a holder requests reimbursement.

6-33 Sec. 77.204. APPEAL. (a) A person aggrieved by the
 6-34 decision of a claim filed under this chapter may appeal the decision
 6-35 before the 61st day after the day on which it was rendered.

6-36 (b) If a claim has not been decided before the 91st day after
 6-37 the day on which it was filed, the claimant may appeal within the
 6-38 60-day period beginning on the 91st day after the day of filing.

6-39 (c) An appeal under this section must be made by filing suit
 6-40 against the state in a district court in Travis County.

6-41 (d) A court shall try an action filed under this section de
 6-42 novo and shall apply the rules of practice of the court.

6-43 Sec. 77.205. LIMITATION OF LIABILITY. The liability of the
 6-44 state is limited to the extent of the property delivered under this
 6-45 chapter and remaining in the possession of the comptroller at the
 6-46 time a suit is filed.

6-47 Sec. 77.206. FEE FOR RECOVERY. (a) A person who informs a
 6-48 potential claimant that the claimant may be entitled to claim
 6-49 property under this chapter may not contract for or receive from the
 6-50 claimant for services an amount that exceeds 10 percent of the value
 6-51 of the property recovered.

6-52 (b) A person who receives a fee for recovery from a claimant
 6-53 that exceeds 10 percent of the value of the property recovered is
 6-54 liable to the claimant for the amount of the fee plus attorney's
 6-55 fees and expenses.

6-56 SUBCHAPTER F. UNCLAIMED PAYMENTS

6-57 Sec. 77.251. UNCLAIMED RESTITUTION PAYMENTS. (a) The
 6-58 comptroller shall maintain a record that documents unclaimed
 6-59 restitution payments received under this chapter.

6-60 (b) The comptroller shall deposit all unclaimed restitution
 6-61 payments to the credit of the compensation to victims of crime
 6-62 auxiliary fund in the state treasury.

6-63 (c) Income or interest derived from unclaimed restitution
 6-64 payments deposited in the fund shall remain in the compensation to
 6-65 victims of crime auxiliary fund.

6-66 Sec. 77.252. USE OF MONEY. (a) Except as provided by
 6-67 Subsection (b) and Chapter 56, Code of Criminal Procedure, money in
 6-68 the compensation to victims of crime auxiliary fund may only be used
 6-69 to pay claims as provided by this chapter and is not available for

7-1 any other purpose. Section 403.095, Government Code, does not
 7-2 apply to the fund.

7-3 (b) The legislature may appropriate money in the
 7-4 compensation to victims of crime auxiliary fund to cover costs
 7-5 incurred by the comptroller in administering this chapter.

7-6 Sec. 77.253. EXCESS CLAIMS. The comptroller may pay a claim
 7-7 under this chapter that is more than the money available in the
 7-8 compensation to victims of crime auxiliary fund using funds
 7-9 appropriated by the legislature for paying claims under this title.

7-10 SUBCHAPTER G. ENFORCEMENT

7-11 Sec. 77.301. RULES. The comptroller may adopt rules
 7-12 necessary to carry out this chapter.

7-13 Sec. 77.302. EXAMINATION OF RECORDS. (a) To enforce this
 7-14 chapter and to determine whether reports have been made as required
 7-15 by this chapter, the comptroller, the attorney general, or an
 7-16 authorized agent of either, may, at any reasonable time and place,
 7-17 examine the books and records of any holder.

7-18 (b) The comptroller, the attorney general, or an agent of
 7-19 either may not make public any information obtained by an
 7-20 examination made under this section and may not disclose that
 7-21 information except in the course of a judicial proceeding,
 7-22 authorized by this chapter, in which the state is a party or under
 7-23 an agreement with another state allowing joint audits or the
 7-24 exchange of information obtained under this section.

7-25 Sec. 77.303. AUTHORITY TO TAKE TESTIMONY AND ISSUE
 7-26 ADMINISTRATIVE SUBPOENAS. (a) In addition to the authority to
 7-27 examine granted by Section 77.302, to enforce this chapter and to
 7-28 determine whether reports have been made as required by this
 7-29 chapter, the comptroller, or the comptroller's designee, may take
 7-30 testimony, administer oaths, and issue subpoenas to compel any
 7-31 person, at a time and place reasonable under the circumstances, to
 7-32 appear and give testimony, and to produce relevant books, records,
 7-33 documents, or other data, in whatever form, for audit, inspection,
 7-34 and copying.

7-35 (b) A person authorized to serve process under the Texas
 7-36 Rules of Civil Procedure may serve a subpoena issued under
 7-37 Subsection (a). The person shall serve the subpoena in accordance
 7-38 with the Texas Rules of Civil Procedure.

7-39 Sec. 77.304. ENFORCEMENT OF SUBPOENAS. (a) If the person
 7-40 to whom a subpoena is directed under Section 77.303 fails to comply
 7-41 with the subpoena, or fails to file a motion to quash or otherwise
 7-42 demand a pre-compliance review of the subpoena, within the return
 7-43 date specified in the subpoena, the attorney general shall, on the
 7-44 request of the comptroller, bring suit to enforce the subpoena. The
 7-45 suit may be brought in a state district court where service may be
 7-46 obtained on the person refusing to testify or produce records.

7-47 (b) A court that determines that the subpoena was issued in
 7-48 good faith shall order compliance with the subpoena. The court may
 7-49 apply penalties for civil and criminal contempt otherwise available
 7-50 at law where a person refuses to comply with the court's order.

7-51 Sec. 77.305. VENUE FOR PRE-COMPLIANCE REVIEW. A person
 7-52 receiving a subpoena under this chapter may, before the return date
 7-53 specified in the subpoena, petition a district court in Travis
 7-54 County for an order to modify or quash the subpoena.

7-55 Sec. 77.306. ASSISTANCE IN ENFORCEMENT. If the comptroller
 7-56 or attorney general requests, any state agency, county clerk,
 7-57 district clerk, county attorney, or district attorney shall assist
 7-58 the comptroller or attorney general in enforcing this chapter.

7-59 Sec. 77.307. PENALTY. A penalty equal to five percent of
 7-60 the value of the unclaimed restitution payment due shall be imposed
 7-61 on a holder who fails to pay or deliver the payment within the time
 7-62 prescribed by this chapter. If a holder fails to pay or deliver an
 7-63 unclaimed restitution payment before the 121st day after the date
 7-64 the payment is due, an additional penalty equal to five percent of
 7-65 the value of the payment due shall be imposed.

7-66 Sec. 77.308. WAIVER OR ABATEMENT OF PENALTY. The
 7-67 comptroller may waive any penalty or interest imposed under this
 7-68 chapter.

7-69 SECTION 5. The following laws are repealed:

8-1 (1) Article 56.54(c), Code of Criminal Procedure; and
8-2 (2) Section 76.013(d), Government Code.

8-3 SECTION 6. As soon as is practicable after the effective
8-4 date of this Act, but not later than January 1, 2018, the office of
8-5 the attorney general and the comptroller of public accounts shall
8-6 establish a plan for the identification and transfer of records,
8-7 property, and unspent appropriations of the attorney general that
8-8 are used for the purpose of managing the compensation to victims of
8-9 crime auxiliary fund.

8-10 SECTION 7. As soon as is practicable after the effective
8-11 date of this Act, but not later than March 1, 2018, a department
8-12 that prior to the effective date of this Act had previously
8-13 transferred payments to the comptroller under Section 76.013 or
8-14 508.322, Government Code, shall provide to the comptroller the
8-15 information required under Section 77.051(b), Property Code, as
8-16 added by this Act, for each victim for whom the department
8-17 previously transferred a payment to the comptroller.

8-18 SECTION 8. This Act takes effect September 1, 2017.

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