

2017 Regular Session

HOUSE BILL NO. 286

BY REPRESENTATIVE SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/RESTITUTION: Provides for the payment of restitution to the Crime Victims Reparations Fund in certain cases

1 AN ACT

2 To amend and reenact R.S. 15:574.4.2(C) and R.S. 46:1807(B)(1), (3), and (5) and

3 1816(B)(5) and (C)(1) and to enact R.S. 46:1806(F), 1809(D), and 1816(C)(3),

4 relative to restitution as a condition of parole; to provide for the payment of

5 restitution to the Crime Victims Reparations Fund in certain cases; to provide for

6 recovery by the victim of restitution payments directed to the Crime Victims

7 Reparations Fund; to provide relative to the duties of the Crime Victims Reparations

8 Board; to provide relative to the source and use of funds in the Crime Victims

9 Reparations Fund; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 15:574.4.2(C) is hereby amended and reenacted to read as follows:

12 §574.4.2. Decisions of committee on parole; nature, order, and conditions of parole;

13 rules of conduct; infectious disease testing

14 * * *

15 C.(1)(a) When a victim of the crime for which parole is being considered has

16 suffered a direct pecuniary loss other than damage to or loss of property, the parole

17 committee may impose as a condition of parole that ~~restitutions~~ restitution be made

18 to the victim ~~be made~~. When such a condition is imposed, the committee shall ~~take~~

19 ~~into account~~ consider the defendant's ability to pay and shall not revoke parole based

20 upon this condition unless the parolee has willfully failed to comply. When the

1 victim's loss consists of damage to or loss of property, the committee shall impose
2 as a condition of parole payment of restitution, either in a lump sum or in monthly
3 installments based on the earning capacity and assets of the defendant. If the victim
4 was paid for such property loss or damage with monies from the Crime Victims
5 Reparations Fund, the committee shall order the parolee to make such payments as
6 reimbursement to the fund in the same amount as was paid from the fund to the
7 victim. This condition of parole shall continue until such time as the restitution is
8 paid or the parolee is discharged from parole in accordance with R.S. 15:574.6.

9 (b) If restitution to the victim is ordered as a condition of parole in
10 accordance with the provisions of this Subsection and the victim cannot be located
11 by the probation and parole officer within one year after the condition is imposed,
12 the defendant shall direct the restitution payments to the Crime Victims Reparations
13 Fund as provided for in R.S. 46:1816.

14 (2) Nothing ~~herein~~ in this Subsection shall affect a victim's civil remedy
15 except that funds actually received shall be credited to any civil judgment arising out
16 of the same offense.

17 * * *

18 Section 2. R.S. 46:1807(B)(1), (3), and (5) and 1816(B)(5) and (C)(1) are hereby
19 amended and reenacted and R.S. 46:1806(F), 1809(D), and 1816(C)(3) are hereby enacted
20 to read as follows:

21 §1806. Application; requirements; confidentiality

22 * * *

23 F. A victim who was owed restitution as a condition of an offender's parole
24 pursuant to R.S. 15:574.4.2(C)(1)(a) but whose restitution payments were directed
25 to the Crime Victims Reparations Fund pursuant to R.S. 15:574.4.2(C)(1)(b) may file
26 an application for recovery of the restitution in a written format developed by the
27 board.

28 §1807. Powers and duties of board; staff

29 * * *

1 B. In the performance of its powers and duties the board shall:

2 (1) Prescribe, distribute, and otherwise make available forms for use in
3 making application for reparations and, where appropriate, recovery of restitution
4 funds directed to the Crime Victims Reparations Fund pursuant to R.S.
5 15:574.4.2(C)(1)(b).

6 * * *

7 (3) Receive, verify, and process applications for reparations and, where
8 appropriate, recovery of restitution funds directed to the Crime Victims Reparations
9 Fund pursuant to R.S. 15:574.4.2(C)(1)(b).

10 * * *

11 (5) Make a written decision with respect to each application received by it
12 and order payment of reparations or, where appropriate, recovery of restitution funds
13 to victims in accordance with this Chapter.

14 * * *

15 §1809. Criteria for making awards; prohibitions; authority to deny or reduce awards

16 * * *

17 D.(1) When a victim applies for the recovery of restitution pursuant to R.S.
18 46:1806(F) the board shall order the payment of the restitution to the victim if all of
19 the following conditions apply:

20 (a) The board determines that an offender was ordered to pay restitution to
21 the victim as a condition of the offender's release on parole pursuant to R.S.
22 15:574.4.2(C)(1)(a).

23 (b) The restitution payments were directed to the Crime Victims Reparations
24 Fund pursuant to R.S. 15:574.4.2(C)(1)(b).

25 (2) When the board orders payment pursuant to the provisions of Paragraph
26 (1) of this Subsection, the provisions of Subsections A and B of this Section
27 regarding criteria for and determinations of eligibility for reparations and
28 determinations of the amount of reparations do not apply.

29 * * *

1 §1816. Crime Victims Reparations Fund; creation; sources and use of funds

2 * * *

3 B. The fund shall be composed of:

4 * * *

5 (5) Any restitution paid by an offender to a victim for damages for a crime
6 which was the basis of a reparations award under this Chapter, and any restitution
7 payments owed to a victim as a condition of an offender's release on parole but
8 directed to the fund pursuant to R.S. 15:574.4.2(C)(1)(b).

9 * * *

10 C.(1) Except as provided in ~~Paragraph~~ Paragraphs (2) and (3) of this
11 Subsection, all monies deposited in the fund shall be used solely to pay reparation
12 awards to victims pursuant to this Chapter and disbursements therefrom shall be
13 made by the state treasurer upon written order of the board, signed by the chairman,
14 or a court.

15 * * *

16 (3) Monies directed to the fund pursuant to R.S. 15:574.4.2(C)(1)(b) may
17 be used to pay restitution owed to a victim pursuant to R.S. 15:574.4.2(C)(1)(a) who
18 applies for recovery of the restitution funds pursuant to the provisions of this
19 Chapter.

20 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 286 Reengrossed

2017 Regular Session

Smith

Abstract: Provides for the payment of restitution to the Crime Victims Reparations Fund when the crime victim cannot be located within one year, and provides the procedure by which a victim may recover restitution directed to the fund.

Present law authorizes the committee on parole to order restitution to a crime victim when the victim has suffered a direct pecuniary loss other than damage to or loss of property, and requires the committee to order restitution when the victim's loss consists of damage to or loss of property.

Proposed law retains present law and provides that when the victim cannot be located by the probation and parole officer within one year after the condition of restitution is imposed, the defendant shall direct the restitution payments to the Crime Victims Reparations Fund set forth in present law.

Present law establishes the Crime Victims Reparations Fund and authorizes the Crime Victims Reparations Board to administer the fund and make determinations about the eligibility for victims to receive reparations from the fund and the amount of such reparations.

Proposed law retains present law and provides for the procedure by which a victim who was owed restitution as a condition of an offender's parole but whose restitution payments were directed to the Crime Victims Reparations Fund pursuant to proposed law may recover the restitution payments from the fund. Proposed law provides that the fund can include monies directed to it pursuant to proposed law and provides that the fund may be used to pay restitution owed to a victim as a condition of an offender's parole and who applies for recovery of the restitution funds pursuant to proposed law.

Proposed law provides that the present law provisions regarding criteria for and determinations of eligibility for reparations and determinations of the amount of reparations do not apply to the payment of restitution to a victim who applies for the recovery of restitution pursuant to proposed law.

(Amends R.S. 15:574.4.2(C) and R.S. 46:1807(B)(1), (3), and (5) and 1816(B)(5) and (C)(1); Adds R.S. 46:1806(F), 1809(D), and 1816(C)(3))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Add procedure by which a victim who was owed restitution as a condition of an offender's parole but whose restitution payments were directed to the Crime Victims Reparations Fund pursuant to proposed law may recover the restitution payments from the fund.
2. Provide that the Crime Victims Reparations Fund can include monies directed to it pursuant to proposed law.
3. Provide that the fund may be used to pay restitution owed to a victim as a condition of an offender's parole who applies for recovery of the restitution funds pursuant to proposed law.
4. Provide that the present law provisions regarding criteria for determinations of eligibility for reparations and determinations of the amount of reparations do not apply to the payment of restitution to a victim who applies for the recovery of restitution directed to the fund pursuant to proposed law.