

Chapter 351

H.B. No. 1866

AN ACT

1  
2 relating to compensation and restitution to crime victims and the  
3 disposition of unclaimed restitution payments; providing for an  
4 administrative penalty; authorizing a fee.

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

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

9 (a) The compensation to victims of crime fund is [~~and the~~  
10 ~~compensation to victims of crime auxiliary fund are~~] in the state  
11 treasury.

12 (d) The attorney general may not make compensation payments  
13 in excess of the amount of money available in the compensation to  
14 victims of crime fund [~~from the combined funds~~].

15 (f) The office of the attorney general is authorized to  
16 accept gifts, grants, and donations to be credited to the  
17 compensation to victims of crime fund [~~and compensation to victims~~  
18 ~~of crime auxiliary fund~~] and shall file annually with the governor  
19 and the presiding officer of each house of the legislature a  
20 complete and detailed written report accounting for all gifts,  
21 grants, and donations received and disbursed, used, or maintained  
22 by the office for the attorney general that are credited to the fund  
23 [~~these funds~~].

24 (g) Money in the compensation to victims of crime fund [~~or~~

1 ~~in the compensation to victims of crime auxiliary fund]~~ may be used  
2 only as provided by this subchapter and is not available for any  
3 other purpose. Section 403.095, Government Code, does not apply to  
4 the fund.

5 (1) As appropriated by the legislature, the ~~[The]~~ attorney  
6 general may use the compensation to victims of crime auxiliary fund  
7 to cover costs incurred by the attorney general in administering  
8 the address confidentiality program established under Subchapter  
9 c.

10 (m-1) Notwithstanding Subsection (m), the attorney general  
11 may not transfer money under that subsection during a fiscal year  
12 beginning September 1, 2017, or September 1, 2018. This subsection  
13 expires September 1, 2019.

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

17 (a) If a judge requires a defendant to make restitution to a  
18 victim of the defendant's offense, and a restitution payment is  
19 received by a department from the defendant for transmittal to a  
20 victim of the offense, the department ~~[that receives the payment~~  
21 ~~for disbursement to the victim]~~ shall immediately deposit the  
22 payment in an interest-bearing account in the county treasury as  
23 required by Section 140.003(f), Local Government Code.

24 (b) If a department receives an initial restitution payment  
25 ~~[is received by a department]~~, the department shall immediately  
26 ~~[shall]~~ notify the victim ~~[of that fact]~~ by certified mail, mailed  
27 to the last known address of the victim, that the restitution

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

24 (b-1) If a victim makes a claim for payment of restitution  
25 with the department, the department shall promptly remit to the  
26 victim all restitution payments received by the department from the  
27 defendant for transmittal to the victim.

1        (b-2) If a victim who is entitled to restitution does not  
2 make a claim for payment before the fifth anniversary of the date  
3 the department receives the initial restitution payment or if,  
4 after the victim makes a claim for payment, the department is unable  
5 to locate the victim for a period of five years after the date the  
6 department last made a payment to the victim, any unclaimed  
7 restitution payments being held by the department for payment to  
8 the victim are presumed abandoned. The department shall report and  
9 deliver to the comptroller all unclaimed restitution payments  
10 presumed abandoned under this section, less a collection fee of one  
11 and one-half percent, in the manner provided by Chapter 77,  
12 Property Code.

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

19        (c) The collection fee under Subsection (b-2) [~~(b)~~] and the  
20 accrued interest under Subsection [~~Subsections~~] (a) [~~and (b)~~] shall  
21 be deposited in the special fund of the county treasury provided by  
22 Section 509.011 to be used for the same purposes for which state aid  
23 may be used under that section. [~~The department has a maximum of~~  
24 ~~121 days after the five-year expiration date to transfer the funds~~  
25 ~~to the comptroller's office. Failure to comply with the 121-day~~  
26 ~~deadline will result in a five percent collection fee penalty~~  
27 ~~calculated from the total deposit and all interest attributable to~~

1 ~~the unclaimed funds.]~~

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

5 (e) If a victim who is entitled to restitution does not make  
6 a claim for payment before the fifth anniversary of the date the  
7 department receives the initial restitution payment or if, after  
8 the victim makes a claim for payment, the department is unable to  
9 locate the victim for a period of five years after the date the  
10 department last made a payment to the victim, any unclaimed  
11 restitution payments being held by the department for payment to  
12 the victim are presumed abandoned. The department shall report and  
13 deliver to the comptroller all unclaimed restitution payments  
14 presumed abandoned under this section in the manner provided by  
15 Chapter 77, Property Code [~~Money that remains unclaimed shall be~~  
16 ~~transferred to the compensation to victims of crime auxiliary fund~~  
17 ~~on the fifth anniversary of the date the money was deposited to the~~  
18 ~~credit of the releasee restitution fund].~~

19 (f) If on March 1 a department is not holding unclaimed  
20 restitution payments that are presumed abandoned under this  
21 section, the department shall file a property report under Section  
22 77.051, Property Code, that certifies that the department is not  
23 holding any unclaimed restitution payments that are presumed  
24 abandoned under this section.

25 SECTION 4. Title 6, Property Code, is amended by adding  
26 Chapter 77 to read as follows:

1           CHAPTER 77. REPORT, DELIVERY, AND CLAIMS PROCESS FOR

2                           UNCLAIMED RESTITUTION PAYMENTS

3                                   SUBCHAPTER A. APPLICABILITY

4           Sec. 77.001. APPLICABILITY. This chapter applies to  
5 unclaimed restitution payments that are presumed abandoned under  
6 Section 76.013 or 508.322, Government Code.

7                                   SUBCHAPTER B. PROPERTY REPORT

8           Sec. 77.051. PROPERTY REPORT. (a) Notwithstanding the  
9 confidentiality provisions of Chapters 57, 57A, 57B, and 57D, Code  
10 of Criminal Procedure, each holder who on March 1 holds an unclaimed  
11 restitution payment that is presumed abandoned under Section 76.013  
12 or 508.322, Government Code, shall file a property report with the  
13 comptroller on or before the following July 1. The comptroller may  
14 prescribe the form to be used for the report required by this  
15 section and may require the report to be filed electronically.

16           (b) The property report must include, if known by the  
17 holder:

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

22                   (2) the cause number of the case in which a judge  
23 ordered a defendant to pay restitution to the victim, the amount of  
24 restitution ordered, and the balance owed to the victim;

25                   (3) the date of the last transaction with the victim  
26 concerning the restitution payments; and

27                   (4) other information that the comptroller requires to

1 be disclosed as necessary for the administration of this chapter.

2 (c) A holder who is required by Subsection (a) to file a  
3 report in any year shall file a report each successive year  
4 thereafter. If a person required to file a report under this  
5 subsection is not holding any restitution payments that are  
6 presumed abandoned under Section 76.013 or 508.322, Government  
7 Code, the person shall certify that the person is not holding any  
8 restitution payments that are presumed abandoned under those  
9 sections.

10 Sec. 77.052. NOTICE BY HOLDER REQUIRED. A holder who on  
11 March 1 holds an unclaimed restitution payment that is presumed  
12 abandoned under Section 76.013 or 508.322, Government Code, shall,  
13 on or before the following May 1, mail to the last known address of  
14 the victim entitled to the unclaimed restitution payment written  
15 notice stating that:

16 (1) the holder is holding the restitution payment to  
17 which the victim is entitled; and

18 (2) the holder may be required to deliver the  
19 restitution payment to the comptroller on or before July 1 if the  
20 victim does not claim the restitution payment.

21 Sec. 77.053. SIGNED STATEMENT. (a) The person preparing a  
22 property report required by this chapter shall provide with each  
23 copy of the report a statement signed by the holder's chief fiscal  
24 officer, as designated by the holder. The signature required by  
25 this section may be in an electronic or other form prescribed by the  
26 comptroller and shall have the same effect as an original  
27 signature.

1        (b) The statement must include the following sentence:

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

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

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

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

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



1                   SUBCHAPTER C. NOTICE BY COMPTROLLER

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

6           Sec. 77.102. PUBLICATION. Notwithstanding Section 77.054,  
7 the comptroller may publish on the Internet information regarding  
8 unclaimed restitution payments received by the comptroller, except  
9 that the comptroller may not publish information that identifies a  
10 person as a victim or information that identifies a victim's  
11 address. For the purposes of this subsection, the victim's address  
12 includes information that identifies a victim's place of residence  
13 or post office box but does not include the city or county in which  
14 the victim resides.

15                   SUBCHAPTER D. DELIVERY

16           Sec. 77.151. DELIVERY OF PROPERTY TO COMPTROLLER. Each  
17 holder who on March 1 holds an unclaimed restitution payment that is  
18 presumed abandoned under Section 76.013 or 508.322, Government  
19 Code, shall deliver the property to the comptroller on or before the  
20 following July 1 accompanied by the report required to be filed  
21 under Section 77.051.

22           Sec. 77.152. RESPONSIBILITY AFTER DELIVERY. (a) If an  
23 unclaimed restitution payment that is presumed abandoned under  
24 Section 76.013 or 508.322, Government Code, is reported and  
25 delivered to the comptroller, the state shall assume custody of the  
26 payment and responsibility for its safekeeping.

27           (b) A holder who delivers an unclaimed restitution payment

1 to the comptroller in compliance with this chapter is relieved of  
2 all liability to the extent of the value of the payment delivered  
3 for any claim then existing, that may arise after delivery to the  
4 comptroller, or that may be made with respect to the payment.

5 (c) If the holder delivers an unclaimed restitution payment  
6 to the comptroller in good faith and, after delivery, a person  
7 claims the property from the holder, the attorney general shall, on  
8 written notice of the claim, defend the holder against the claim,  
9 and the holder shall be indemnified against any liability on the  
10 claim.

11 SUBCHAPTER E. CLAIM FOR DELIVERED PROPERTY

12 Sec. 77.201. CLAIM FILED WITH COMPTROLLER. (a) The  
13 comptroller shall review the validity of each claim for an  
14 unclaimed restitution payment filed under this section.

15 (b) If the comptroller determines a claim for an unclaimed  
16 restitution payment is valid, the comptroller shall approve the  
17 claim. If a claim is approved under this section, the comptroller  
18 shall pay the claim.

19 (c) All claims to which this section applies must be filed  
20 in accordance with the procedures, contain the information, and be  
21 on forms prescribed by the comptroller.

22 (d) On receipt of a claim form and all necessary  
23 documentation as may be appropriate under the circumstances, the  
24 comptroller may approve the claim of:

25 (1) the victim;

26 (2) if the victim died testate:

27 (A) the appropriate legal beneficiaries of the

1 victim as provided by the last will and testament of the victim that  
2 has been accepted into probate or filed as a muniment of title; or

3 (B) the executor of the victim's last will and  
4 testament who holds current letters testamentary;

5 (3) if the victim died intestate or is deceased and  
6 presumed intestate:

7 (A) the legal heirs of the victim as provided by  
8 Chapter 201, Estates Code; or

9 (B) the court-appointed administrator of the  
10 victim's estate, on behalf of the legal heirs of the victim;

11 (4) the legal heirs of the victim as established by an  
12 affidavit of heirship order signed by a judge of the county probate  
13 court or by a county judge;

14 (5) if the victim is a minor child or an adult who has  
15 been adjudged incompetent by a court of law, the parent or legal  
16 guardian of the child or adult;

17 (6) if the victim is a trust:

18 (A) the trustee, on behalf of the trust; or

19 (B) the beneficiaries of the trust, if the trust  
20 is dissolved;

21 (7) if the victim is a corporation:

22 (A) the president or chair of the board of  
23 directors of the corporation, on behalf of the corporation;

24 (B) any person who has been delegated legal  
25 authority to act on behalf of the corporation by the president or  
26 board of directors of the corporation; or

27 (C) a receiver appointed for the corporation;

1           (8) if the victim is a corporation that has been  
2 dissolved, liquidated, or otherwise terminated:

3                   (A) the surviving shareholders of the  
4 corporation in proportion to their ownership of the corporation at  
5 the time of dissolution, liquidation, or termination;

6                   (B) the corporation's bankruptcy trustee; or

7                   (C) a receiver appointed for the corporation;

8           (9) if the victim is a state agency, the comptroller;  
9 or

10           (10) any other person that is entitled to receive the  
11 unclaimed restitution payment under other law or comptroller  
12 policy.

13           (e) Except as provided by Subsections (f) and (g), the  
14 comptroller may not approve the claim of or pay a claim to the  
15 following persons:

16                   (1) a creditor, a judgment creditor, a lienholder, or  
17 an assignee of the victim or of any other person entitled to receive  
18 an unclaimed restitution payment under this section;

19                   (2) a receiver, if the receiver is appointed at the  
20 request of a person the comptroller may not pay under Subdivision  
21 (1);

22                   (3) a person attempting to make a claim on behalf of a  
23 trust or corporation that has previously been dissolved or  
24 terminated, if it appears the trust or corporation was revived for  
25 the purpose of making a claim under this section and the person  
26 submitting the claim was not an authorized representative of the  
27 corporation or trust at the time of the dissolution or termination;

1 or

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

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

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

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

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

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

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

26 (d) The comptroller may not reimburse a holder for a claim  
27 paid to a person the comptroller is not permitted to pay under

1 Section 77.201(e).

2 (e) The liability of the comptroller to reimburse a holder  
3 under this section is limited to the extent of the property  
4 delivered under this chapter and remaining in the possession of the  
5 comptroller at the time a holder requests reimbursement.

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

9 (b) If a claim has not been decided before the 91st day after  
10 the day on which it was filed, the claimant may appeal within the  
11 60-day period beginning on the 91st day after the day of filing.

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

14 (d) A court shall try an action filed under this section de  
15 novo and shall apply the rules of practice of the court.

16 Sec. 77.205. LIMITATION OF LIABILITY. The liability of the  
17 state is limited to the extent of the property delivered under this  
18 chapter and remaining in the possession of the comptroller at the  
19 time a suit is filed.

20 Sec. 77.206. FEE FOR RECOVERY. (a) A person who informs a  
21 potential claimant that the claimant may be entitled to claim  
22 property under this chapter may not contract for or receive from the  
23 claimant for services an amount that exceeds 10 percent of the value  
24 of the property recovered.

25 (b) A person who receives a fee for recovery from a claimant  
26 that exceeds 10 percent of the value of the property recovered is  
27 liable to the claimant for the amount of the fee plus attorney's

1 fees and expenses.

2 SUBCHAPTER F. UNCLAIMED PAYMENTS

3 Sec. 77.251. UNCLAIMED RESTITUTION PAYMENTS. (a) The  
4 comptroller shall maintain a record that documents unclaimed  
5 restitution payments received under this chapter.

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

9 (c) Income or interest derived from unclaimed restitution  
10 payments deposited in the fund shall remain in the compensation to  
11 victims of crime auxiliary fund.

12 Sec. 77.252. USE OF MONEY. (a) Except as provided by  
13 Subsection (b) and Chapter 56, Code of Criminal Procedure, money in  
14 the compensation to victims of crime auxiliary fund may only be used  
15 to pay claims as provided by this chapter and is not available for  
16 any other purpose. Section 403.095, Government Code, does not  
17 apply to the fund.

18 (b) The legislature may appropriate money in the  
19 compensation to victims of crime auxiliary fund to cover costs  
20 incurred by the comptroller in administering this chapter.

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

25 SUBCHAPTER G. ENFORCEMENT

26 Sec. 77.301. RULES. The comptroller may adopt rules  
27 necessary to carry out this chapter.

1       Sec. 77.302. EXAMINATION OF RECORDS. (a) To enforce this  
2 chapter and to determine whether reports have been made as required  
3 by this chapter, the comptroller, the attorney general, or an  
4 authorized agent of either, may, at any reasonable time and place,  
5 examine the books and records of any holder.

6       (b) The comptroller, the attorney general, or an agent of  
7 either may not make public any information obtained by an  
8 examination made under this section and may not disclose that  
9 information except in the course of a judicial proceeding,  
10 authorized by this chapter, in which the state is a party or under  
11 an agreement with another state allowing joint audits or the  
12 exchange of information obtained under this section.

13       Sec. 77.303. AUTHORITY TO TAKE TESTIMONY AND ISSUE  
14 ADMINISTRATIVE SUBPOENAS. (a) In addition to the authority to  
15 examine granted by Section 77.302, to enforce this chapter and to  
16 determine whether reports have been made as required by this  
17 chapter, the comptroller, or the comptroller's designee, may take  
18 testimony, administer oaths, and issue subpoenas to compel any  
19 person, at a time and place reasonable under the circumstances, to  
20 appear and give testimony, and to produce relevant books, records,  
21 documents, or other data, in whatever form, for audit, inspection,  
22 and copying.

23       (b) A person authorized to serve process under the Texas  
24 Rules of Civil Procedure may serve a subpoena issued under  
25 Subsection (a). The person shall serve the subpoena in accordance  
26 with the Texas Rules of Civil Procedure.

27       Sec. 77.304. ENFORCEMENT OF SUBPOENAS. (a) If the person



1 to whom a subpoena is directed under Section 77.303 fails to comply  
2 with the subpoena, or fails to file a motion to quash or otherwise  
3 demand a pre-compliance review of the subpoena, within the return  
4 date specified in the subpoena, the attorney general shall, on the  
5 request of the comptroller, bring suit to enforce the subpoena. The  
6 suit may be brought in a state district court where service may be  
7 obtained on the person refusing to testify or produce records.

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

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

16 Sec. 77.306. ASSISTANCE IN ENFORCEMENT. If the comptroller  
17 or attorney general requests, any state agency, county clerk,  
18 district clerk, county attorney, or district attorney shall assist  
19 the comptroller or attorney general in enforcing this chapter.

20 Sec. 77.307. PENALTY. A penalty equal to five percent of  
21 the value of the unclaimed restitution payment due shall be imposed  
22 on a holder who fails to pay or deliver the payment within the time  
23 prescribed by this chapter. If a holder fails to pay or deliver an  
24 unclaimed restitution payment before the 121st day after the date  
25 the payment is due, an additional penalty equal to five percent of  
26 the value of the payment due shall be imposed.

27 Sec. 77.308. WAIVER OR ABATEMENT OF PENALTY. The

1 comptroller may waive any penalty or interest imposed under this  
2 chapter.

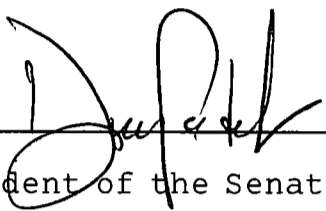
3 SECTION 5. The following laws are repealed:

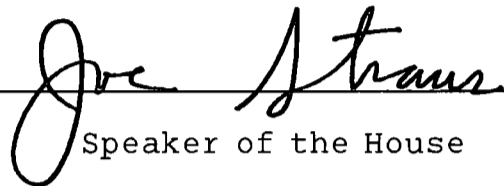
- 4 (1) Article 56.54(c), Code of Criminal Procedure; and  
5 (2) Section 76.013(d), Government Code.

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

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

21 SECTION 8. This Act takes effect September 1, 2017.

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 1866 was passed by the House on May 6, 2017, by the following vote: Yeas 137, Nays 1, 2 present, not voting.


  
\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 1866 was passed by the Senate on May 23, 2017, by the following vote: Yeas 31, Nays 0.

  
\_\_\_\_\_  
Secretary of the Senate

APPROVED: 5-31-2017  
Date

  
\_\_\_\_\_  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
11:00 AM O'CLOCK  
JUN 01 2017  
  
\_\_\_\_\_  
Secretary of State

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 8, 2017**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1866** by Geren (Relating to compensation and restitution to crime victims and the disposition of unclaimed restitution payments; providing for an administrative penalty; authorizing a fee.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1866, As Engrossed: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue (Loss) from <i>Crime Victims Comp Acct</i> 469	Probable Revenue Gain from <i>Crime Victims Aux Acct</i> 494
2018	(\$1,681,180)	\$1,681,180
2019	(\$1,681,180)	\$1,681,180
2020	\$0	\$0
2021	\$0	\$0
2022	\$0	\$0

**Fiscal Analysis**

The bill would amend the Code of Criminal Procedure, Government Code, and Property Code relating to compensation and restitution to crime victims and the disposition of unclaimed restitution payments.

The bill would amend Chapter 56, Code of Criminal Procedure, to prohibit the Office of the Attorney General (OAG) from transferring not more than 50 percent of ending fiscal year balance of the General Revenue-Dedicated Compensation to Victims of Crime Auxiliary Fund 494 in excess of \$5,000,000 to the General Revenue-Dedicated Compensation to Victims of Crime Fund 469, under the authority currently provided in Section 56.54(m), during the fiscal years beginning September 1, 2017 and September 1, 2018.

The bill would amend Chapter 76 of the Government Code, regarding Community Supervision and Corrections Departments, and Chapter 508 of the Government Code, regarding Parole and Mandatory Supervision, to establish that any restitution payments that are unclaimed for five years are presumed abandoned and would be reported and delivered to the Comptroller of Public Accounts (CPA) under the unclaimed restitution procedures in Chapter 77 of the Property Code, as added by the bill.

The bill would add new Chapter 77 to the Property Code, regarding the report, delivery, and claims process for unclaimed restitution payments, and would apply to payments that are presumed abandoned under Sections 76.013 or 508.322 of the Government Code, as amended by the bill. The bill would require each holder of presumed abandoned restitution payments to file a property report with the CPA with certain information of the victim if known. The CPA would provide notice to victims that they are holding unclaimed restitution payments that are subject to this chapter, and may publish information on the internet except for information that identifies a person as a victim or the victim's address. The bill would authorize the CPA to approve a claim for child support arrearages owed by the victim and reflected in a child support lien; the bill would authorize the lienholder to submit a claim.

The bill would require presumed abandoned restitution payments that remain unclaimed to be transferred to the CPA to be deposited to Fund 494. The bill would require the CPA to review claims for unclaimed restitution payments and would allow any claimant to seek review in Travis County district court. The bill would authorize the Legislature to appropriate money in Fund 494 to cover the CPA's costs incurred in administering Chapter 77. The holder of an unclaimed restitution payment who does not comply with the provisions of Chapter 77 would be subject to a penalty.

### **Methodology**

The bill would add new subsection (m-1) to Section 56.54, Code of Criminal Procedure, to prohibit the OAG from transferring during the fiscal years beginning September 1, 2017 and September 1, 2018 half of ending previous fiscal year balances in excess of \$5,000,000 in the General Revenue-Dedicated Compensation to Victims of Crime Auxiliary Fund 494 to the General Revenue-Dedicated Compensation to Victims of Crime Fund 469. The transfers are otherwise currently authorized under subsection (m). From fiscal year 2014 to fiscal year 2016, the Annual Cash Reports for those affected years indicate transfers ranging from \$1,406,105 to \$1,597,785. Additionally, the OAG indicates a transfer of \$1,984,129 was made in fiscal year 2017. The average of the transfer for those four years is \$1,681,180. Therefore, this analysis assumes an annual revenue loss of \$1,681,180 for fiscal years 2018 and 2019 to Fund 469 and a corresponding gain to Fund 494.

The CPA currently pays restitution claims under Section 76.013 of the Government Code. It is assumed the bill's provisions would not affect the monetary value of unclaimed restitution payments received by the state. The CPA assumes any costs to implement the provisions of the bill can be absorbed within existing resources.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

**Local Government Impact**

According to the Texas Association of Counties, the fiscal impact cannot be determined at this time.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice

**LBB Staff:** UP, KJo, ZB, WP, LCO, NV, KVe, RC, JGA

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 20, 2017**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1866** by Geren (relating to compensation and restitution to crime victims and the disposition of unclaimed restitution payments; providing for an administrative penalty; authorizing a fee.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1866, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue (Loss) from <i>Crime Victims Comp Acct</i> 469	Probable Revenue Gain from <i>Crime Victims Aux Acct</i> 494
2018	(\$1,681,180)	\$1,681,180
2019	(\$1,681,180)	\$1,681,180
2020	\$0	\$0
2021	\$0	\$0
2022	\$0	\$0

**Fiscal Analysis**

The bill would amend the Code of Criminal Procedure, Government Code, and Property Code relating to compensation and restitution to crime victims and the disposition of unclaimed restitution payments.

The bill would amend Chapter 56, Code of Criminal Procedure, to prohibit the Office of the Attorney General (OAG) from transferring not more than 50 percent of ending fiscal year balance of the General Revenue-Dedicated Compensation to Victims of Crime Auxiliary Fund 494 in excess of \$5,000,000 to the General Revenue-Dedicated Compensation to Victims of Crime Fund 469, under the authority currently provided in Section 56.54(m), during the fiscal years beginning September 1, 2017 and September 1, 2018.

The bill would amend Chapter 76 of the Government Code, regarding Community Supervision and Corrections Departments, and Chapter 508 of the Government Code, regarding Parole and Mandatory Supervision, to establish that any restitution payments that are unclaimed for five years are presumed abandoned and would be reported and delivered to the Comptroller of Public Accounts (CPA) under the unclaimed restitution procedures in Chapter 77 of the Property Code, as added by the bill.

The bill would add new Chapter 77 to the Property Code, regarding the report, delivery, and claims process for unclaimed restitution payments, and would apply to payments that are presumed abandoned under Sections 76.013 or 508.322 of the Government Code, as amended by the bill. The bill would require each holder of presumed abandoned restitution payments to file a property report with the CPA with certain information of the victim if known. The CPA would provide notice to victims that they are holding unclaimed restitution payments that are subject to this chapter, and may publish information on the internet except for information that identifies a person as a victim or the victim's address. The bill would authorize the CPA to approve a claim for child support arrearages owed by the victim and reflected in a child support lien; the bill would authorize the lienholder to submit a claim.

The bill would require presumed abandoned restitution payments that remain unclaimed to be transferred to the CPA to be deposited to Fund 494. The bill would require the CPA to review claims for unclaimed restitution payments and would allow any claimant to seek review in Travis County district court. The bill would authorize the Legislature to appropriate money in Fund 494 to cover the CPA's costs incurred in administering Chapter 77. The holder of an unclaimed restitution payment who does not comply with the provisions of Chapter 77 would be subject to a penalty.

### **Methodology**

The bill would add new subsection (m-1) to Section 56.54, Code of Criminal Procedure, to prohibit the OAG from transferring during the fiscal years beginning September 1, 2017 and September 1, 2018 half of ending previous fiscal year balances in excess of \$5,000,000 in the General Revenue-Dedicated Compensation to Victims of Crime Auxiliary Fund 494 to the General Revenue-Dedicated Compensation to Victims of Crime Fund 469. The transfers are otherwise currently authorized under subsection (m). From fiscal year 2014 to fiscal year 2016, the Annual Cash Reports for those affected years indicate transfers ranging from \$1,406,105 to \$1,597,785. Additionally, the OAG indicates a transfer of \$1,984,129 was made in fiscal year 2017. The average of the transfer for those four years is \$1,681,180. Therefore, this analysis assumes an annual revenue loss of \$1,681,180 for fiscal years 2018 and 2019 to Fund 469 and a corresponding gain to Fund 494.

The CPA currently pays restitution claims under Section 76.013 of the Government Code. It is assumed the bill's provisions would not affect the monetary value of unclaimed restitution payments received by the state. The CPA assumes any costs to implement the provisions of the bill can be absorbed within existing resources.



This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

**Local Government Impact**

According to the Texas Association of Counties, the fiscal impact cannot be determined at this time.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 212 Office of Court Administration, Texas Judicial Council, 696 Department of Criminal Justice

**LBB Staff:** UP, KJo, WP, LCO, NV, KVe, RC, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 2, 2017**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1866** by Geren (Relating to compensation and restitution to crime victims and the disposition of unclaimed restitution payments; providing for an administrative penalty.),  
**As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB1866, As Introduced: a negative impact of (\$396,844) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$233,714)
2019	(\$163,130)
2020	(\$163,130)
2021	(\$163,130)
2022	(\$163,130)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Savings/(Cost) from <i>Federal Funds</i> 555	Probable Revenue (Loss) from <i>Crime Victims Comp</i> <i>Acct</i> 469	Probable Revenue Gain from <i>Crime Victims Aux</i> <i>Acct</i> 494
2018	(\$233,714)	(\$137,016)	(\$1,681,180)	\$1,681,180
2019	(\$163,130)	\$0	(\$1,681,180)	\$1,681,180
2020	(\$163,130)	\$0	(\$1,681,180)	\$1,681,180
2021	(\$163,130)	\$0	(\$1,681,180)	\$1,681,180
2022	(\$163,130)	\$0	(\$1,681,180)	\$1,681,180

**Fiscal Analysis**

The bill would amend the Code of Criminal Procedure, Government Code, and Property Code

relating to compensation and restitution to crime victims and the disposition of unclaimed restitution payments.

The bill would amend Chapter 56, Code of Criminal Procedure, to remove General Revenue-Dedicated Compensation to Victims of Crime Auxiliary Fund 494 as a payer of last resort under the Crime Victims Compensation Act. The bill would repeal subsections (l) and (m) of Section 56.54 which respectively allow the Office of the Attorney General (OAG) to use Fund 494 to cover costs incurred in administering the Address Confidentiality Program (ACP) and allow the OAG to transfer not more than 50 percent of ending fiscal year balance of Fund 494 in excess of \$5,000,000 to the General Revenue-Dedicated Compensation to Victims of Crime Fund 469.

The bill would amend Chapter 76 of the Government Code, regarding Community Supervision and Corrections Departments, and Chapter 508 of the Government Code, regarding Parole and Mandatory Supervision, to establish that any restitution payments that are unclaimed for five years are presumed abandoned and would be reported and delivered to the Comptroller of Public Accounts (CPA) under the unclaimed restitution procedures in Chapter 77 of the Property Code, as added by the bill.

The bill would add new Chapter 77 to the Property Code, regarding the report, delivery, and claims process for unclaimed restitution payments, and would apply to payments that are presumed abandoned under Sections 76.013 or 508.322 of the Government Code, as amended by the bill. The bill would require each holder of presumed abandoned restitution payments to file a property report with the CPA with certain information of the victim if known. The CPA would provide notice to victims that they are holding unclaimed restitution payments that are subject to this chapter, and may publish information on the internet except for information that identifies a person as a victim or the victim's address. The bill would authorize the CPA to approve a claim for child support arrearages owed by the victim and reflected in a child support lien; the bill would authorize the lien holder or the OAG to submit a claim.

The bill would require presumed abandoned restitution payments that remain unclaimed to be transferred to the CPA to be deposited to Fund 494. The bill would require the CPA to review claims for unclaimed restitution payments and would allow any claimant to seek review in Travis County district court. The bill would authorize the Legislature to appropriate money in Fund 494 to cover the CPA's costs incurred in administering Chapter 77. The holder of an unclaimed restitution payment who does not comply with the provisions of Chapter 77 would be subject to a penalty.

## **Methodology**

The OAG indicates there would be a one-time technology cost of \$207,600, including \$137,016 in Federal Funds and \$70,584 in General Revenue Funds, in fiscal year 2018 relating to provisions of the bill regarding claims for child support arrearages owed by a victim. The agency indicates it would need to modify the Texas Child Support Enforcement System (TXCSES) to ensure receipt of abandoned restitution payments and disbursement of the funds to the custodial parent.

Additionally, the OAG currently receives appropriations of \$163,130 out of Fund 494 for the Address Confidentiality Program. According to the bill, the program would no longer be an allowable use of Fund 494. This analysis assumes a cost of \$163,130 out of the General Revenue Fund annually to replace Fund 494 to administer the program.

The bill would repeal Section 56.54(m), Code of Criminal Procedure, which currently allows half of ending fiscal year balances in Fund 494 in excess of \$5,000,000 to be transferred by the OAG

to the General Revenue-Dedicated Compensation to Victims of Crime Fund 469. From fiscal year 2014 to fiscal year 2016, the Annual Cash Reports for those affected years indicate transfers ranging from \$1,406,105 to \$1,597,785. Additionally, the OAG indicates a transfer of \$1,984,129 was made in fiscal year 2017. The average of the transfer for those four years is \$1,681,180. Therefore, this analysis assumes an annual revenue loss of \$1,681,180 for fiscal years 2018 to 2022 to Fund 469 and a corresponding gain to Fund 494.

The CPA currently pays restitution claims under Section 76.013 of the Government Code. It is assumed the bill's provisions would not affect the monetary value of unclaimed restitution payments received by the state. The CPA assumes any costs to implement the provisions of the bill can be absorbed within existing resources.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

### **Technology**

The OAG indicates there would be a one-time technology cost of \$207,600 to modify TXCSES to ensure the receipt of abandoned restitution payments and disbursement of the funds to the custodial parent. The cost reflects 2,100 contractor hours to modify TXCSES, including hours for architecture, data administration, mainframe development, and portal development, to provide this functionality.

### **Local Government Impact**

According to the Texas Association of Counties, the fiscal impact cannot be determined at this time.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 696 Department of Criminal Justice

**LBB Staff:** UP, KJo, NV, LCO, KVe, RC, JGA