ENROLLED SENATE
BILL NO. 310

By: Wilkerson, Fisher, Fair, Long (Lewis) and Shurden of the Senate

and

Askins, Glover, O'Neal, Breckinridge, Dank, Kirby, Satterfield, Pettigrew, Tyler, Paulk, Roach, Perry, Thornbrugh, Adkins, Phillips, Reese and Vaughn of the House

An Act relating to notoriety-for-profit; amending 22 O.S. 1991, Section 17, which relates to custody and distribution of proceeds from sale of rights arising from criminal act; expanding source of profits from crime; requiring profits be forfeited except under certain conditions; creating certain lien on certain money; stating method for foreclosing certain lien; providing criminal penalty for failure to comply; giving victims priority claim to proceeds and profits; stating other priority payments; expanding statute of limitations for civil suit; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 1991, Section 17, is amended to read as follows:

Section 17. A. Every person who has been charged, convicted, has pled guilty or has pled nolo contendere to any crime, hereinafter referred to as the defendant, or any other person with the cooperation of the defendant, who contracts to ~~reenact such crime by the use of any movie, book, newspaper, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of his thoughts, opinions or emotions regarding such~~ receive, or have any other person or entity receive, any proceeds or profits from any source, as a direct or indirect result of the crime or sentence, or the notoriety which the crime or sentence has conferred upon the defendant, shall forfeit the proceeds or profits as provided in this section; provided, however, proceeds or profits from a contract relating to the depiction or discussion of the defendant's crime shall not be subject to forfeiture unless an integral part of the work is a depiction or discussion of the defendant's crime or an impression of the defendant's thoughts, opinions, or emotions regarding the crime. All parties to a contract described in this section are required to pay to the district court wherein the criminal charges were filed any ~~money~~ proceeds or thing of value ~~contracted~~ which pursuant to the contract is to be paid to the defendant or to another person or

entity. The district court shall make deposit ~~such monies~~ of proceeds received pursuant to this section and direct the county treasurer to make the deposit of those funds in an escrow account for the benefit of and payable to ~~any victim~~ victims of the crime or ~~his~~ the legal representative of any victim of ~~crimes~~ the crime committed by the defendant or to repay a public defender office for legal representation during a criminal proceeding. There is hereby created a lien upon any sum of money or other thing of value payable to anyone pursuant to any contract described in this section, for the purpose of enforcing the forfeiture obligation established herein, which lien may be foreclosed in the same manner as statutory tax liens created by Oklahoma law. Any person who contracts without fully providing for such forfeiture in compliance with the provisions of this section shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Ten Thousand Dollars ($10,000.00) and not to exceed three times the value of the proceeds of the contract, or by imprisonment not exceeding ten (10) years in the custody of the Department of Corrections, or both such fine and imprisonment.

B. ~~Payments from the account shall be made to the defendant upon an order of the judge of the district court wherein the charges were filed upon showing that the money or thing of value shall be used for the exclusive purpose of retaining legal representation for the defendant at any stage of the proceedings arising out of a criminal charge, and that the defendant would otherwise be unable to afford adequate representation.~~

~~C.~~ Payments from the escrow account shall be used, in the following order of priority, to satisfy any judgment rendered in favor of a victim or ~~his~~ a victim's legal representative, ~~provided said victim brings~~ to pay restitution, fines, court costs, and other payments, reparations or reimbursements ordered by the court at the time of sentencing including repayments to a public defender office for legal representation of the defendant and to pay every cost and expense of incarceration and treatment authorized by law as a cost of the defendant.

C. A victim or the legal representative of a victim must file a civil action, in a court of competent jurisdiction, to recover money against the defendant or ~~his~~ the defendant's legal ~~representatives~~ representative within ~~five (5)~~ seven (7) years of the filing of the criminal charges against the defendant. The victims and the legal representative of a victim of the crime shall have a priority interest in any proceeds or profits received pursuant to the provisions of this section. If no victim or legal representative of a victim has filed a civil suit within ~~five (5)~~ seven (7) years from the filing of the criminal charges against the defendant, any money ~~remaining~~ in the escrow account shall be paid over in the following order of priority:

1. For restitution;
2. For any fine and court costs;
3. For other payments ordered in the sentence;
4. For the costs and expenses of incarceration; and

any remaining money to the Victims' Compensation Revolving Fund. Upon disposition of charges favorable to the defendant, any money in the escrow account shall be paid over to the defendant.

D. The district court wherein the criminal charges were filed shall, once every six (6) months for ~~five (5)~~ seven (7) years from the date ~~the~~ any money is deposited with the court, publish a notice in at least one (1) newspaper of general circulation in each county of the state in accordance with the provisions on publication of notices found in Sections 101 et seq. of Title 25 of the Oklahoma

Statutes, notifying any eligible victim or legal representative of an eligible victim that monies are available to satisfy judgments pursuant to this section.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 8th day of May, 1995.

President of the Senate

Passed the House of Representatives the 15th day of May, 1995.

Speaker of the House of Representatives