

1 (a) "Conviction" or "convicted," with respect to the
2 commission of a criminal offense, means a finding of guilt or
3 the acceptance of a plea of guilty or nolo contendere,
4 regardless of whether adjudication was withheld.

5 (b) "Materials" means a writing, sound or video
6 recording, interview or appearance on a television or radio
7 station, or a live presentation of any kind which includes or
8 is based on the story of a felony for which a convicted felon
9 was convicted.

10 (c) "Proceeds of sale" means all fees, royalties,
11 commissions, real or personal property, or other consideration
12 of any kind received by or accruing or owing to a convicted
13 felon or the representative of a convicted felon for the
14 preparation of or for the purpose of sale of materials, for
15 the sale of the rights to materials, or the sale or
16 distribution by the convicted felon of materials, whether
17 earned, accrued, or paid before or after the conviction. The
18 term includes any interest, earnings, or accretions upon
19 proceeds and any property received in exchange for proceeds.

20 (d) "Profits from the sale of memorabilia" means all
21 income, whether payable, accruing, or received, from anything
22 sold or transferred by a convicted felon, a representative of
23 a convicted felon, or a profiteer of a felony, including any
24 right or memorabilia, the value of which thing or right is
25 enhanced by the notoriety gained from the commission of the
26 felony of which the felon was convicted. This income may be
27 accrued, earned, or paid before or after the conviction. The
28 term excludes a voluntary donation or contribution made to a
29 defendant to assist in the defense of criminal charges which
30 was not given in exchange for something of value.

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1 (e) "Profiteer of a felony" means a person who sells
2 or transfers for consideration any memorabilia or other
3 property or thing of a convicted felon, the value of which is
4 enhanced by the notoriety gained from the commission of the
5 felony of which the felon was convicted. The term excludes:

6 1. A media entity reporting on a convicted felon or
7 reporting on the sale or transfer of materials, memorabilia,
8 or other property or things belonging to a felon;

9 2. The sale or transfer of materials, if the seller is
10 exercising his or her rights under the First Amendment of the
11 United States Constitution; or

12 3. The sale or transfer of any other expressive work
13 protected by the First Amendment of the United States
14 Constitution, unless the sale or transfer is primarily for a
15 commercial or speculative purpose.

16 (f) "Representative of a convicted felon" means a
17 person or entity receiving proceeds of sale or profits from
18 the sale of memorabilia by designation of a convicted felon,
19 on behalf of a convicted felon, or in the stead of a convicted
20 felon, whether by the convicted felon's designation or by
21 operation of law, including a person or entity to whom
22 proceeds of sale may be transferred or assigned by gift or
23 otherwise.

24 (g) "Sale" includes the lease, licensure, or any other
25 transfer or alienation that takes place in this state or
26 elsewhere.

27 (h) "Story" means a depiction, portrayal, or
28 reenactment of a felony, including a literary, cinematic, or
29 other account of a felony. The term excludes a passing mention
30 of the felony, as in a footnote or bibliography.
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1 ~~(2)(1)~~ A lien prior in dignity to all others exists
2 ~~shall exist~~ in favor of the state upon the royalties,
3 ~~commissions,~~ proceeds of sale, ~~or any other thing of value~~
4 ~~payable to or accruing to a convicted felon or a person on her~~
5 ~~or his behalf, including any person to whom the proceeds may~~
6 ~~be transferred or assigned by gift or otherwise, from any~~
7 ~~literary, cinematic, or other account of the crime for which~~
8 ~~she or he was convicted. A conviction shall be defined as a~~
9 ~~guilty verdict by a jury or judge, or a guilty or nolo~~
10 ~~contendere plea by the defendant, regardless of adjudication~~
11 ~~of guilt. The lien attaches shall attach~~ at the time of the
12 conviction of the subject felony in ~~county or~~ circuit court.
13 In the event of an appeal, the funds must ~~will~~ be held in the
14 Revolving Escrow Trust Fund of the Department of Legal Affairs
15 until the appeal is resolved.

16 (3) A lien prior in dignity to all others exists in
17 favor of the state upon the profits from the sale of
18 memorabilia. The lien attaches at the time of the conviction
19 of the subject felony in circuit court. In the event of an
20 appeal, the funds must be held in the Revolving Escrow Trust
21 Fund of the Department of Legal Affairs until the appeal is
22 resolved.

23 ~~(4)(2)~~ The funds in the ~~proceeds of such~~ account shall
24 be distributed in the following order:

25 (a) Twenty-five percent to the dependents of the
26 convicted felon. If there are no dependents, this portion
27 shall be distributed to the Crimes Compensation Trust Fund to
28 be distributed as awards for crime victims.

29 (b) Twenty-five percent to the victim or victims of
30 the crime or to their dependents, to the extent of their
31 damages as determined by the court in the lien enforcement

1 proceedings. If there are no victims or dependents, or if
2 their damages are less than 25 percent of the proceeds, this
3 portion, or its remainder, shall be distributed to the Crimes
4 Compensation Trust Fund to be distributed as awards to crime
5 victims.

6 (c) After payments have been made pursuant to
7 paragraph (a) or paragraph (b), an amount equal to pay all
8 court costs in the prosecution of the convicted felon, which
9 includes ~~shall include~~, but is not ~~be~~ limited to, jury fees
10 and expenses, court reporter fees, and reasonable per diem for
11 the prosecuting attorneys for the state, shall be deposited
12 into ~~go to~~ the General Revenue Fund. Additional costs shall be
13 assessed for the computed per capita cost of imprisonment or
14 supervision by the state or county correctional system. The
15 ~~Such~~ costs shall be determined and certified by the
16 prosecuting attorney and the imprisoning entity and subject to
17 review by the Auditor General.

18 (d) The rest, residue, and remainder to the Crimes
19 Compensation Trust Fund to be distributed as awards to crime
20 victims.

21 ~~(5)(3)~~ A judge may place a lien prior in dignity to
22 all others in favor of the state or county upon any financial
23 settlement payable to or accruing to a convicted felon
24 ~~offender or a representative of a convicted felon person on~~
25 ~~her or his behalf~~, as a result of injury incurred during or at
26 the time of a violation of the state law, or as a result of an
27 attempt to flee apprehension for the offense for which the
28 offender was convicted. ~~A conviction is defined as in~~
29 ~~subsection (1)~~. The lien shall be attached by order of the
30 judge at the time of the conviction in ~~county or~~ circuit
31 court. In the event of an appeal, the funds shall be held in

1 the Revolving Escrow Trust Fund of the Department of Legal
2 Affairs until the appeal is resolved.

3 ~~(6)(4)~~ The financial settlement must ~~proceeds of such~~
4 ~~account shall~~ be distributed in the following order:

5 (a) Payment of all medical care, treatment,
6 hospitalization, and transportation resulting from the said
7 injury.

8 (b) Payment to the victim or victims of the crime or
9 to their dependents, to the extent of their damages as
10 determined by the court in the lien enforcement proceeding.

11 (c) Payment of all court costs in the prosecution of
12 the convicted felon, which includes ~~shall include~~, but is not
13 ~~be~~ limited to, jury fees and expense, court reporter fees, and
14 reasonable per diem for the prosecuting attorneys and public
15 defenders.

16 (d) Payment of cost of incarceration in state or
17 county facilities.

18 (e) The rest, residue, remainder to the injured party.

19 ~~(7)(5)~~ The department shall ~~is hereby authorized and~~
20 ~~directed to~~ report to the Department of Legal Affairs the
21 existence or reasonably expected existence of circumstances
22 that which would be covered by this section. Upon such
23 notification, the Department of Legal Affairs is authorized
24 and directed to take ~~such~~ legal action as ~~is~~ necessary to
25 perfect and enforce the lien created by this section.

26 Section 2. Section 960.291, Florida Statutes, is
27 amended to read:

28 960.291 Definitions.--When used in this act, the term:

29 (1) "Civil restitution lien" means a lien that which
30 exists in favor of crime victims, the state, its local
31 subdivisions, or an aggrieved party and that which attaches

1 against the real or personal property owned by a convicted
2 offender.

3 (2) "Convicted offender" means a defendant who has a
4 conviction ~~as defined herein~~ entered against the defendant in
5 the courts of this state.

6 (3) "Conviction" means a finding of guilt or the
7 acceptance of a plea of guilty or nolo contendere, regardless
8 of whether adjudication was withheld ~~guilty verdict by a jury~~
9 ~~or judge, or a guilty or nolo contendere plea by a defendant,~~
10 ~~regardless of adjudication of guilt.~~

11 (4) "Crime victim" means the victim of a crime and
12 includes the aggrieved party, the aggrieved party's estate if
13 the aggrieved party is deceased, and the aggrieved party's
14 next of kin if the aggrieved party is deceased as a result of
15 the conduct of a convicted offender. For the purposes of this
16 act, the term "crime victim" does not include any person who
17 participated in the criminal conduct or criminal episode
18 resulting in the conviction.

19 (5) "Damages or losses" includes:

20 (a) Damage or loss to a ~~any~~ crime victim which is
21 caused by the conduct of a convicted offender. This amount
22 shall be determined by the court, as provided for in s.
23 960.293.

24 (b) Damage or loss to the state and its local
25 subdivisions which is caused by imposition of a convicted
26 offender's sentence.

27 1. ~~The~~ Such damage or loss to the state and its local
28 subdivisions includes the costs of incarceration and other
29 correctional costs in connection with the implementation of a
30 state court's sentence. This cost shall be determined by the
31 court, as provided for in s. 960.293.

1 2. ~~The~~ ~~Such~~ damage or loss to the state ~~does~~ ~~shall~~ not
2 include those costs on conviction for which the defendant may
3 be held liable under chapter 939.

4 (6) "Local subdivisions" means local subdivisions of
5 the State of Florida which maintain correctional facilities,
6 such as counties that maintain county correctional facilities
7 or counties that provide funds directly or indirectly for the
8 maintenance of correctional facilities within the county.

9 (7) "Real or personal property" includes any real or
10 personal property owned by the convicted offender, or that a
11 person possesses on the convicted offender's behalf,
12 including, but not limited to, any royalties, commissions,
13 proceeds of sale or profits from the sale of memorabilia, as
14 defined in s. 944.512, or any other thing of value accruing to
15 the convicted offender, or a person on the convicted
16 offender's behalf. The term "real or personal property"
17 specifically includes any financial settlement or court award
18 payable or accruing to a convicted offender or to a person on
19 behalf of the convicted offender. ~~A~~ ~~No~~ civil restitution lien
20 created pursuant to ~~the provisions of~~ this act may not be
21 foreclosed on real property that ~~which~~ is the convicted
22 offender's homestead under s. 4, Art. X of the State
23 Constitution.

24 (8) "Sentence" means the court-imposed sentence of a
25 convicted offender.

26 Section 3. This act shall take effect July 1, 2006.

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SENATE SUMMARY

Provides for a lien in favor of the state on the proceeds or profits of the sale of literary accounts, materials, and memorabilia payable to or accruing to a convicted felon, a representative of the convicted felon, or a profiteer of the felony. Defines terms. Provides for distribution of the proceeds or profits of the sale of certain literary accounts or memorabilia. Clarifies application of lien provisions to convictions in circuit court. Revises definitions to conform to changes made by the act.