



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 seller or transferor of materials if the seller  
10 or transferor is exercising his or her rights under the First  
11 Amendment of the United States Constitution; or

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

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.  
31

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 and public defenders ~~for the state~~,  
12 shall be deposited into ~~go to~~ the General Revenue Fund.

13 Additional costs shall be assessed for the computed per capita  
14 cost of imprisonment or supervision by the state or county  
15 correctional system. The ~~Such~~ costs shall be determined and  
16 certified by the prosecuting attorney and the imprisoning  
17 entity and subject to 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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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 562

- Revises the wording from the "sale or transfer of materials if the seller..." to the "seller or transferor of materials if the seller or transferor" for purposes of creating a more grammatically parallel phrase.
- Revises wording which creates an exception for the sale or transfer of expressive works so that the wording is more consistent to the definition of a "profiteer of a felony." The amended phrase substitutes "for the purpose of economic gain" for the phrase "a commercial or speculative purpose" to more clearly characterize expressive works not falling under the exception created by this provision.
- Adds public defender costs to the costs that may be recovered with the prosecution of a convicted felon so that the language is consistent with other provisions referring to the distribution of funds accruing to the state that are proceeds from the convicted felon's sale of materials and memorabilia as well as financial settlements.