

MAR 9 1992  
Place On Calendar

HOUSE FILE 2405  
BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 726)

Passed House, Date 3/26/92 (p 842) Passed Senate, Date 4/1/92 (P. 1157)  
Vote: Ayes 97 Nays 0 Vote: Ayes 48 Nays 0  
Approved April 27, 1992

A BILL FOR

1 An Act relating to proceeds received by felons as it relates to  
2 Iowa's "Son of Sam" statute.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2405

1 Section 1. Section 910.15, Code 1991, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 910.15 DISTRIBUTION OF MONEYS RECEIVED AS A RESULT OF THE  
5 COMMISSION OF CRIME.

6 1. DEFINITIONS. As used in this section, unless the  
7 context otherwise requires:

8 a. "Convicted felon" means a person initially convicted,  
9 or found not guilty by reason of insanity, of a felony  
10 committed in Iowa, either by a court or jury trial or by entry  
11 of a guilty plea in court.

12 b. "Escrow account" includes, but is not limited to,  
13 property in which the attorney general has assumed the powers  
14 of a receiver as provided in this section.

15 c. "Felony" means a felony defined by any Iowa or United  
16 States statute.

17 d. "Materials" means movies, films, videotapes, books,  
18 magazine articles, radio or television presentations or  
19 appearances, or live presentations of any kind.

20 e. "Proceeds" means all fees, royalties, real property, or  
21 other consideration of any and every kind or nature received  
22 by or owing to a felon or the felon's representatives for the  
23 preparation for the purpose of sale of materials, for the sale  
24 of the rights to materials, or the sale or distribution by the  
25 convicted felon of materials, whether earned, accrued, or paid  
26 before or after the conviction. It includes any interest,  
27 earnings, or accretions upon proceeds, and any property  
28 received in exchange for proceeds.

29 f. "Representative of the convicted felon" means any  
30 person or entity receiving proceeds by designation of that  
31 convicted felon, or on behalf of that convicted felon, or in  
32 the stead of that convicted felon, whether by the felon's  
33 designation or by operation of law.

34 g. "Sale" includes, but is not limited to, lease, license,  
35 or any other transfer taking place in Iowa or elsewhere.

1 h. "Story" means a work of which a substantial portion  
2 includes a depiction, portrayal, or reenactment of a felony  
3 for which the felon was convicted. "Story" does not include  
4 works which merely mention the felony, as in a footnote or  
5 bibliography.

6 1. "Victim" means a person who has suffered physical,  
7 mental, or emotional harm or financial loss as the result of a  
8 felony committed in this state, for which the felon was  
9 convicted. The term also includes the father, mother, son, or  
10 daughter of a victim who died or was rendered incompetent as a  
11 result of the offense or who was under eighteen years of age  
12 at the time of the offense.

13 2. DUE PROCESS HEARING -- ACTION BY ATTORNEY GENERAL.

14 a. The attorney general may bring an action to require all  
15 proceeds received by a convicted felon or representative of  
16 the convicted felon to be deposited in an escrow account as  
17 provided in this section.

18 b. The action may be brought in the county where the  
19 convicted felon resides, or the county in which the proceeds  
20 are located.

21 c. The action shall be preceded by notice to any  
22 interested party.

23 d. The court shall order that all proceeds be deposited in  
24 the escrow account until an order of disposition is made by  
25 the court pursuant to subsection 3, 4, or 5 or until the  
26 expiration of the escrow account as specified in subsection 8,  
27 if the attorney general proves both of the following:

28 (1) The proceeds are proceeds from the preparation for the  
29 purpose of sale, the sale of the rights to, or the sale of  
30 materials that are based on the story of a felony for which  
31 the convicted felon was convicted.

32 (2) It is more probable than not that there are victims  
33 who may recover a money judgment against the felon for  
34 physical, mental, or emotional injury or pecuniary loss  
35 proximately caused by the convicted felon as a result of the

1 felony for which the felon was convicted.

2 e. If the court orders that proceeds be deposited in an  
3 escrow account and the nature of the proceeds to the person  
4 initially convicted of the crime is such that it cannot be  
5 placed in an escrow account, the attorney general shall assume  
6 the powers of a receiver under chapter 680 in taking charge of  
7 the property for benefit of and payable to any victim or  
8 representative of the victim. In those instances, the date  
9 the attorney general assumed the power of a receiver, shall be  
10 considered the date the escrow account was established for  
11 purposes of this section.

12 3. NOTICE OF ESTABLISHMENT OF ESCROW ACCOUNT. Once an  
13 escrow account is established, the attorney general shall make  
14 reasonable efforts to notify victims and representatives of  
15 victims of the escrow account and their possible rights under  
16 this section. The reasonable efforts shall include, but are  
17 not limited to, mailing the notification to known victims or  
18 representatives of known victims. The cost of notification  
19 shall be paid from the escrow account or from the sale of  
20 property held in receivership.

21 4. PROCEEDS FOR LEGAL DEFENSE OF FELON. The attorney  
22 general shall make payments from the escrow account or  
23 property held in receivership to the person accused of the  
24 crime upon the order of a court of competent jurisdiction  
25 after a showing by the person that the money or other property  
26 shall be used for the exclusive purpose of retaining legal  
27 representation at any stage of the criminal proceedings  
28 against the person, including the appeals process.

29 5. PAYMENT OF ESCROW FUNDS TO VICTIMS. The remaining  
30 proceeds in escrow may be levied upon to satisfy a money  
31 judgment entered against the convicted felon, by a court of  
32 competent jurisdiction, for physical, mental, or emotional  
33 injury, or pecuniary loss proximately caused by the convicted  
34 felon as a result of the felony for which the felon was  
35 convicted.

1 6. PRIORITY AND PRORATION OF CLAIMS. Proceeds distributed  
2 under subsection 3 shall have first priority, and proceeds  
3 distributed for the cost of legal defense under subsection 4  
4 shall have second priority in the distribution of proceeds in  
5 the escrow account. If there are multiple judgments by  
6 victims under subsection 5 against the convicted felon, and  
7 the remaining proceeds in the escrow account are insufficient  
8 to satisfy all of the judgments, the proceeds shall be  
9 distributed on a pro rata basis based on the ratio that the  
10 amount of an individual victim's judgment bears to the total  
11 amount of all victims' judgments against the convicted felon  
12 which have been claimed under this section.

13 7. LIMITATION OF ACTION. Notwithstanding section 614.1, a  
14 victim or the victim's representative who has a cause of  
15 action for a crime for which an escrow account or receivership  
16 is established pursuant to this section, may bring the action  
17 against the escrow account or against the property in  
18 receivership within five years of the date the escrow account  
19 is established.

20 8. DURATION OF ESCROW ACCOUNT. Notwithstanding the other  
21 provisions of this section, upon a disposition of charges  
22 favorable to the person accused of committing the felony, or  
23 upon a showing by the person that five years have elapsed from  
24 the date of establishment of the escrow account and further  
25 that no actions are pending against the person, the attorney  
26 general shall immediately pay over any money in the escrow  
27 account to the person.

28 9. PURPOSE. The purpose of this section is to meet the  
29 following compelling state interests:

30 a. The state has an interest in ensuring that victims of  
31 crime are compensated by those who harm them.

32 b. The state has an interest in ensuring that criminals do  
33 not profit from their felonious crimes at the expense of their  
34 victims.

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EXPLANATION

1 New York's "Son of Sam" law was recently overturned by the  
2 United States Supreme Court in Simon & Schuster v. New York  
3 Crime Victims Board, 112 S. Ct. 501 (1991). Iowa's version of  
4 the law was patterned after New York's law, and thus could be  
5 found to be unconstitutional. This bill is an attempt to  
6 address the concerns of the United States Supreme Court.

7 Under the bill, before any proceeds are channeled to an  
8 escrow account, there is a due process hearing to determine if  
9 the initially convicted felon has proceeds which are from the  
10 sale of materials that are based on the story of the felony  
11 and to determine if it is more probable than not that there  
12 are victims who may recover a money judgment against the felon  
13 for physical, mental, or emotional injury or pecuniary loss  
14 proximately caused by the convicted felon as a result of the  
15 felony. If the court finds in the affirmative for both, the  
16 court is required to order that all proceeds be deposited in  
17 an escrow account until an order of disposition is made by the  
18 court or until the expiration of the escrow account.

19 As under the current Iowa "Son of Sam" law, payments may be  
20 made from the fund to pay for the notification of the  
21 establishment of the escrow account to victims and to pay for  
22 the defense of the initially convicted felon including  
23 appeals. Under the bill, the remaining proceeds in escrow may  
24 be levied upon to satisfy a money judgment entered against the  
25 convicted felon for physical, mental, or emotional injury, or  
26 pecuniary loss proximately caused by the convicted felon as a  
27 result of the felony. If the remaining proceeds in the escrow  
28 account are insufficient to satisfy all of the judgments, the  
29 proceeds are to be distributed on a pro rata basis.

30 As under the current Iowa law, upon disposition of charges  
31 favorable to the initially convicted felon, or upon a showing  
32 that five years has lapsed from the date of establishment of  
33 the escrow account with no further actions pending against the  
34 person, the remaining money in the escrow account is paid to  
35 the initially convicted felon.

1        However, the bill is still content-specific, in that the  
2 only proceeds which are subject to the provisions of the law  
3 are those which are based on the story of the felony. In  
4 Simon and Simon v. New York Crime Victims Board, the Court  
5 objected to the New York law which singled out speech on a  
6 particular subject for a financial burden that it places on no  
7 other speech and no other income.

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## HOUSE FILE 2405

E-5435

1 Amend House File 2405 as follows:

2 1. By striking page 1, line 17, through page 2,  
3 line 6, and inserting the following:

4 "d. "Fruits of the crime" mean any profit which,  
5 were it not for the commission of the felony, would  
6 not have been realized.

7 e. "Proceeds" mean all of the fruits of the crime  
8 from whatever source received by or owing to a felon  
9 or the felon's representatives, whether earned,  
10 accrued, or paid before or after the conviction. It  
11 includes any interest, earnings, or accretions upon  
12 proceeds, and any property received in exchange for  
13 proceeds.

14 f. "Representative of the convicted felon" means  
15 any person or entity receiving proceeds by designation  
16 of that convicted felon, or on behalf of that  
17 convicted felon, or in the stead of that convicted  
18 felon, whether by the felon's designation or by  
19 operation of law.

20 g. "Victim" means a person who has suffered  
21 physical,".

22 2. Page 2, by striking lines 28 through 31 and  
23 inserting the following:

24 "(1) The proceeds are fruits of the crime for  
25 which the convicted felon was convicted."

26 3. Page 3, line 1, by inserting after the word  
27 "convicted" the following: "or there is an unpaid  
28 order of restitution under chapter 910 against the  
29 convicted felon for the felony for which the felon was  
30 convicted."

31 4. Page 3, line 30, by inserting after the word  
32 "satisfy" the following: "an order for restitution  
33 under chapter 910 or".

34 5. Page 4, line 5, by inserting after the word  
35 "multiple" the following: "orders for restitution  
36 and".

37 6. Page 4, line 8, by inserting before the word  
38 "judgments" the following: "orders for restitution  
39 and".

40 7. Page 4, line 10, by inserting after the word  
41 "an" the following: "order for restitution or an".

42 8. Page 4, line 11, by inserting after the word  
43 "all" the following: "restitution orders and".

44 9. Page 4, line 25, by inserting after the word  
45 "person" the following: "or unpaid orders for  
46 restitution or monetary judgments outstanding relating  
47 to the felony for which the felon was convicted".

By JAY of Appanoose  
McKEAN of Jones

H-5435 FILED MARCH 23, 1992

*Adopted 3/23/92 (p. 842)*



Sen. Jule 3/26, No Pass 3/27

HOUSE FILE 2405  
BY COMMITTEE ON JUDICIARY  
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 726)

(As Amended and Passed by the House March 26, 1992)

Passed House, Date 3/26/92 (p 842) Passed Senate, Date 4/1/92 (p 1127)  
Vote: Ayes 97 Nays 0 Vote: Ayes 48 Nays 0  
Approved April 27, 1992 (p 1834)

A BILL FOR

1 An Act relating to proceeds received by felons as it relates to  
2 Iowa's "Son of Sam" statute.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments \_\_\_\_\_

1 Section 1. Section 910.15, Code 1991, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 910.15 DISTRIBUTION OF MONEYS RECEIVED AS A RESULT OF THE  
5 COMMISSION OF CRIME.

6 1. DEFINITIONS. As used in this section, unless the  
7 context otherwise requires:

8 a. "Convicted felon" means a person initially convicted,  
9 or found not guilty by reason of insanity, of a felony  
10 committed in Iowa, either by a court or jury trial or by entry  
11 of a guilty plea in court.

12 b. "Escrow account" includes, but is not limited to,  
13 property in which the attorney general has assumed the powers  
14 of a receiver as provided in this section.

15 c. "Felony" means a felony defined by any Iowa or United  
16 States statute.

17 d. "Fruits of the crime" mean any profit which, were it  
18 not for the commission of the felony, would not have been  
19 realized.

20 e. "Proceeds" mean all of the fruits of the crime from  
21 whatever source received by or owing to a felon or the felon's  
22 representatives, whether earned, accrued, or paid before or  
23 after the conviction. It includes any interest, earnings, or  
24 accretions upon proceeds, and any property received in  
25 exchange for proceeds.

26 f. "Representative of the convicted felon" means any  
27 person or entity receiving proceeds by designation of that  
28 convicted felon, or on behalf of that convicted felon, or in  
29 the stead of that convicted felon, whether by the felon's  
30 designation or by operation of law.

31 g. "Victim" means a person who has suffered physical,  
32 mental, or emotional harm or financial loss as the result of a  
33 felony committed in this state, for which the felon was  
34 convicted. The term also includes the father, mother, son, or  
35 daughter of a victim who died or was rendered incompetent as a

1 result of the offense or who was under eighteen years of age  
2 at the time of the offense.

3 2. DUE PROCESS HEARING -- ACTION BY ATTORNEY GENERAL.

4 a. The attorney general may bring an action to require all  
5 proceeds received by a convicted felon or representative of  
6 the convicted felon to be deposited in an escrow account as  
7 provided in this section.

8 b. The action may be brought in the county where the  
9 convicted felon resides, or the county in which the proceeds  
10 are located.

11 c. The action shall be preceded by notice to any  
12 interested party.

13 d. The court shall order that all proceeds be deposited in  
14 the escrow account until an order of disposition is made by  
15 the court pursuant to subsection 3, 4, or 5 or until the  
16 expiration of the escrow account as specified in subsection 8,  
17 if the attorney general proves both of the following:

18 (1) The proceeds are fruits of the crime for which the  
19 convicted felon was convicted.

20 (2) It is more probable than not that there are victims  
21 who may recover a money judgment against the felon for  
22 physical, mental, or emotional injury or pecuniary loss  
23 proximately caused by the convicted felon as a result of the  
24 felony for which the felon was convicted or there is an unpaid  
25 order of restitution under chapter 910 against the convicted  
26 felon for the felony for which the felon was convicted.

27 e. If the court orders that proceeds be deposited in an  
28 escrow account and the nature of the proceeds to the person  
29 initially convicted of the crime is such that it cannot be  
30 placed in an escrow account, the attorney general shall assume  
31 the powers of a receiver under chapter 680 in taking charge of  
32 the property for benefit of and payable to any victim or  
33 representative of the victim. In those instances, the date  
34 the attorney general assumed the power of a receiver, shall be  
35 considered the date the escrow account was established for

1 purposes of this section.

2 3. NOTICE OF ESTABLISHMENT OF ESCROW ACCOUNT. Once an  
3 escrow account is established, the attorney general shall make  
4 reasonable efforts to notify victims and representatives of  
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6 this section. The reasonable efforts shall include, but are  
7 not limited to, mailing the notification to known victims or  
8 representatives of known victims. The cost of notification  
9 shall be paid from the escrow account or from the sale of  
10 property held in receivership.

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12 general shall make payments from the escrow account or  
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15 after a showing by the person that the money or other property  
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17 representation at any stage of the criminal proceedings  
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19 5. PAYMENT OF ESCROW FUNDS TO VICTIMS. The remaining  
20 proceeds in escrow may be levied upon to satisfy an order for  
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22 against the convicted felon, by a court of competent  
23 jurisdiction, for physical, mental, or emotional injury, or  
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25 result of the felony for which the felon was convicted.

26 6. PRIORITY AND PRORATION OF CLAIMS. Proceeds distributed  
27 under subsection 3 shall have first priority, and proceeds  
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29 shall have second priority in the distribution of proceeds in  
30 the escrow account. If there are multiple orders for  
31 restitution and judgments by victims under subsection 5  
32 against the convicted felon, and the remaining proceeds in the  
33 escrow account are insufficient to satisfy all of the orders  
34 for restitution and judgments, the proceeds shall be  
35 distributed on a pro rata basis based on the ratio that the

1 amount of an order for restitution or an individual victim's  
2 judgment bears to the total amount of all restitution orders  
3 and victims' judgments against the convicted felon which have  
4 been claimed under this section.

5 7. LIMITATION OF ACTION. Notwithstanding section 614.1, a  
6 victim or the victim's representative who has a cause of  
7 action for a crime for which an escrow account or receivership  
8 is established pursuant to this section, may bring the action  
9 against the escrow account or against the property in  
10 receivership within five years of the date the escrow account  
11 is established.

12 8. DURATION OF ESCROW ACCOUNT. Notwithstanding the other  
13 provisions of this section, upon a disposition of charges  
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15 upon a showing by the person that five years have elapsed from  
16 the date of establishment of the escrow account and further  
17 that no actions are pending against the person or unpaid  
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20 attorney general shall immediately pay over any money in the  
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23 following compelling state interests:

24 a. The state has an interest in ensuring that victims of  
25 crime are compensated by those who harm them.

26 b. The state has an interest in ensuring that criminals do  
27 not profit from their felonious crimes at the expense of their  
28 victims.

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MCKean, Knapp, McNeal

HSB 726

New Judiciary & Law Enforcement

HOUSE FILE 2405  
BY (PROPOSED COMMITTEE ON  
JUDICIARY AND LAW  
ENFORCEMENT BILL BY  
CHAIRPERSON JAY)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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21 provisions of this section, upon a disposition of charges  
22 favorable to the person accused of committing the felony, or  
23 upon a showing by the person that five years have elapsed from  
24 the date of establishment of the escrow account and further  
25 that no actions are pending against the person, the attorney  
26 general shall immediately pay over any money in the escrow  
27 account to the person.

28 9. PURPOSE. The purpose of this section is to meet the  
29 following compelling state interests:

30 a. The state has an interest in ensuring that victims of  
31 crime are compensated by those who harm them.

32 b. The state has an interest in ensuring that criminals do  
33 not profit from their felonious crimes at the expense of their  
34 victims.

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EXPLANATION

1 New York's "Son of Sam" law was recently overturned by the  
2 United States Supreme Court in Simon & Schuster v. New York  
3 Crime Victims Board, 112 S. Ct. 501 (1991). Iowa's version of  
4 the law was patterned after New York's law, and thus could be  
5 found to be unconstitutional. This bill is an attempt to  
6 address the concerns of the United States Supreme Court.

7 Under the bill, before any proceeds are channeled to an  
8 escrow account, there is a due process hearing to determine if  
9 the initially convicted felon has proceeds which are from the  
10 sale of materials that are based on the story of the felony  
11 and to determine if it is more probable than not that there  
12 are victims who may recover a money judgment against the felon  
13 for physical, mental, or emotional injury or pecuniary loss  
14 proximately caused by the convicted felon as a result of the  
15 felony. If the court finds in the affirmative for both, the  
16 court is required to order that all proceeds be deposited in  
17 an escrow account until an order of disposition is made by the  
18 court or until the expiration of the escrow account.

19 As under the current Iowa "Son of Sam" law, payments may be  
20 made from the fund to pay for the notification of the  
21 establishment of the escrow account to victims and to pay for  
22 the defense of the initially convicted felon including  
23 appeals. Under the bill, the remaining proceeds in escrow may  
24 be levied upon to satisfy a money judgment entered against the  
25 convicted felon for physical, mental, or emotional injury, or  
26 pecuniary loss proximately caused by the convicted felon as a  
27 result of the felony. If the remaining proceeds in the escrow  
28 account are insufficient to satisfy all of the judgments, the  
29 proceeds are to be distributed on a pro rata basis.

30 As under the current Iowa law, upon disposition of charges  
31 favorable to the initially convicted felon, or upon a showing  
32 that five years has lapsed from the date of establishment of  
33 the escrow account with no further actions pending against the  
34 person, the remaining money in the escrow account is paid to  
35 the initially convicted felon.

1     However, the bill is still content-specific, in that the  
2 only proceeds which are subject to the provisions of the law  
3 are those which are based on the story of the felony. In  
4 Simon and Simon v. New York Crime Victims Board, the Court  
5 objected to the New York law which singled out speech on a  
6 particular subject for a financial burden that it places on no  
7 other speech and no other income.

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HOUSE FILE 2405

AN ACT  
RELATING TO PROCEEDS RECEIVED BY FELONS AS IT RELATES TO  
IOWA'S "SON OF SAM" STATUTE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 910.15, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

910.15 DISTRIBUTION OF MONEYS RECEIVED AS A RESULT OF THE COMMISSION OF CRIME.

1. DEFINITIONS. As used in this section, unless the context otherwise requires:

a. "Convicted felon" means a person initially convicted, or found not guilty by reason of insanity, of a felony committed in Iowa, either by a court or jury trial or by entry of a guilty plea in court.

b. "Escrow account" includes, but is not limited to, property in which the attorney general has assumed the powers of a receiver as provided in this section.

c. "Felony" means a felony defined by any Iowa or United States statute.

d. "Fruits of the crime" mean any profit which, were it not for the commission of the felony, would not have been realized.

e. "Proceeds" mean all of the fruits of the crime from whatever source received by or owing to a felon or the felon's representatives, whether earned, accrued, or paid before or after the conviction. It includes any interest, earnings, or accretions upon proceeds, and any property received in exchange for proceeds.

f. "Representative of the convicted felon" means any person or entity receiving proceeds by designation of that

convicted felon, or on behalf of that convicted felon, or in the stead of that convicted felon, whether by the felon's designation or by operation of law.

g. "Victim" means a person who has suffered physical, mental, or emotional harm or financial loss as the result of a felony committed in this state, for which the felon was convicted. The term also includes the father, mother, son, or daughter of a victim who died or was rendered incompetent as a result of the offense or who was under eighteen years of age at the time of the offense.

2. DUE PROCESS HEARING -- ACTION BY ATTORNEY GENERAL.

a. The attorney general may bring an action to require all proceeds received by a convicted felon or representative of the convicted felon to be deposited in an escrow account as provided in this section.

b. The action may be brought in the county where the convicted felon resides, or the county in which the proceeds are located.

c. The action shall be preceded by notice to any interested party.

d. The court shall order that all proceeds be deposited in the escrow account until an order of disposition is made by the court pursuant to subsection 3, 4, or 5 or until the expiration of the escrow account as specified in subsection 8, if the attorney general proves both of the following:

(1) The proceeds are fruits of the crime for which the convicted felon was convicted.

(2) It is more probable than not that there are victims who may recover a money judgment against the felon for physical, mental, or emotional injury or pecuniary loss proximately caused by the convicted felon as a result of the felony for which the felon was convicted or there is an unpaid order of restitution under chapter 910 against the convicted felon for the felony for which the felon was convicted.

e. If the court orders that proceeds be deposited in an escrow account and the nature of the proceeds to the person initially convicted of the crime is such that it cannot be placed in an escrow account, the attorney general shall assume the powers of a receiver under chapter 680 in taking charge of the property for benefit of and payable to any victim or representative of the victim. In those instances, the date the attorney general assumed the power of a receiver, shall be considered the date the escrow account was established for purposes of this section.

3. NOTICE OF ESTABLISHMENT OF ESCROW ACCOUNT. Once an escrow account is established, the attorney general shall make reasonable efforts to notify victims and representatives of victims of the escrow account and their possible rights under this section. The reasonable efforts shall include, but are not limited to, mailing the notification to known victims or representatives of known victims. The cost of notification shall be paid from the escrow account or from the sale of property held in receivership.

4. PROCEEDS FOR LEGAL DEFENSE OF FELON. The attorney general shall make payments from the escrow account or property held in receivership to the person accused of the crime upon the order of a court of competent jurisdiction after a showing by the person that the money or other property shall be used for the exclusive purpose of retaining legal representation at any stage of the criminal proceedings against the person, including the appeals process.

5. PAYMENT OF ESCROW FUNDS TO VICTIMS. The remaining proceeds in escrow may be levied upon to satisfy an order for restitution under chapter 910 or a money judgment entered against the convicted felon, by a court of competent jurisdiction, for physical, mental, or emotional injury, or pecuniary loss proximately caused by the convicted felon as a result of the felony for which the felon was convicted.

6. PRIORITY AND PRORATION OF CLAIMS. Proceeds distributed under subsection 3 shall have first priority, and proceeds distributed for the cost of legal defense under subsection 4 shall have second priority in the distribution of proceeds in the escrow account. If there are multiple orders for restitution and judgments by victims under subsection 5 against the convicted felon, and the remaining proceeds in the escrow account are insufficient to satisfy all of the orders for restitution and judgments, the proceeds shall be distributed on a pro rata basis based on the ratio that the amount of an order for restitution or an individual victim's judgment bears to the total amount of all restitution orders and victims' judgments against the convicted felon which have been claimed under this section.

7. LIMITATION OF ACTION. Notwithstanding section 614.1, a victim or the victim's representative who has a cause of action for a crime for which an escrow account or receivership is established pursuant to this section, may bring the action against the escrow account or against the property in receivership within five years of the date the escrow account is established.

8. DURATION OF ESCROW ACCOUNT. Notwithstanding the other provisions of this section, upon a disposition of charges favorable to the person accused of committing the felony, or upon a showing by the person that five years have elapsed from the date of establishment of the escrow account and further that no actions are pending against the person or unpaid orders for restitution or monetary judgments outstanding relating to the felony for which the felon was convicted, the attorney general shall immediately pay over any money in the escrow account to the person.

9. PURPOSE. The purpose of this section is to meet the following compelling state interests:

a. The state has an interest in ensuring that victims of crime are compensated by those who harm them.

b. The state has an interest in ensuring that criminals do not profit from their felonious crimes at the expense of their victims.

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ROBERT C. ARNOULD  
Speaker of the House

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MICHAEL E. GRONSTAL  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2405, Seventy-fourth General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved April 27, 1992

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TERRY E. BRANSTAD  
Governor

**HF 2405**