

BILL ANALYSIS

Senate Research Center
78R5023 KCR-D

S.B. 475
By: Barrientos
Criminal Justice
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DIGEST AND PURPOSE

Currently, some convicted offenders of identity theft are not paying restitution and there is no incentive for the perpetrator to make restitution to the victim in a timely manner. As proposed, S.B. 475 requires an attorney representing the state to file an affidavit perfecting the restitution lien. This bill also requires the judge to enter an order requiring the Department of Public Safety to suspend the defendant's driver's license and prohibiting the Department of Transportation from issuing the defendant a vehicle title or registration, until such time as restitution has been made.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5, Article 42.22, Code of Criminal Procedure, as follows:

Sec. 5. New Heading: DISCRETIONARY AND MANDATORY FILING OF AFFIDAVIT PERFECTING LIEN. (a) Creates Subsection (a) from existing text.

(b) Requires an attorney representing the state in the prosecution of an offense under Section 32.51 (Fraudulent Use or Possession of Identifying Information), Penal Code, to file an affidavit to perfect a restitution lien if the defendant is convicted of the offense and the judge orders the defendant to make restitution to the victim of the offense.

SECTION 2. Amends Section 32.51, Penal Code, by adding Subsections (f) and (g), as follows:

(f) Provides that if a judge orders a defendant convicted of an offense under this section to make restitution to the victim of the offense, the judge is required to also enter an order requiring the Department of Public Safety (DPS) to suspend a defendant's driver's license and prohibiting DPS from issuing a license to a defendant and prohibiting the Texas Department of Transportation (TxDOT) from issuing a defendant a motor vehicle certificate of title and registration.

(g) Provides that an order entered under Subsection (f) expires on the date that a defendant presents proof to the judge that the defendant has made full restitution to the victim of the offense. Requires the judge, on receipt of proof under this subsection, to immediately notify the DPS and TxDOT that the order has expired, and requires those departments to immediately end the suspension or prohibition, as applicable, except that a defendant whose license has been suspended as required by Subsection (f) must apply to DPS for reinstatement of the license and pay a reinstatement fee of \$50.

SECTION 3. (a) Effective date: September 1, 2003.

(b) Makes application of this Act prospective.