

A woman was charged with a felony. After charges were filed but before the woman's trial, the state passed a law requiring any convicted felon to make a payment to the victim of the crime. Under the law, the payment "shall be such amount as the court may find appropriate at the time of sentencing, taking into account the gravity of the offense, but shall not exceed \$25,000." The law applies to all defendants whose trials or guilty pleas take place after the law's passage.

Is the law valid as applied to the woman?

- A. No, because the law cannot be applied retroactively to crimes committed before its passage.
- B. No, because the law fails to provide any standard for the court to use in passing sentence and thus violates procedural due process.
- C. Yes, because the law is rationally related to the state's legitimate interest in punishing crime.
- D. Yes, because the law is remedial rather than punitive.

Correct

Collecting Statistics

01 min, 01 secTime Spent

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Explanation:

Ex post facto clauses

(applies to federal (art. 1, § 9) & state (art. 1, § 10) governments)

Prohibit enactment of retroactive criminal laws that:

criminalize previously legal conduct

impose greater punishment than previously prescribed

eliminate previously available defenses

decrease prosecution's previous burden of proof

The **Article I, section 10 ex post facto** clause **prohibits state governments** from enacting **retroactive criminal laws**—eg, laws that **increase punishment** for **crimes** that were **committed before the law became effective**. As a result, a state cannot retroactively impose a greater punishment for a crime than previously prescribed.

Here, the woman was charged with a felony. Before the woman's trial, the state passed a law that requires convicted felons to make payment to victims of their crimes. This financial penalty is imposed on all defendants whose trials or guilty pleas occur after the law's passage. Therefore, the law would retroactively impose punishment on the woman since she allegedly committed the felony before the law was passed. As a result, the law constitutes an invalid ex post facto law **as applied** to the woman.

(Choice B) A state must provide procedural due process before depriving an individual of a **life, liberty, or property** interest (eg, loss of physical freedom). This requires that the state provide the individual reasonable notice and a meaningful opportunity to be heard. Here, the woman presumably received notice of her trial and will have a meaningful opportunity to be heard when it begins, so the law does not violate procedural due process.

(Choice C) The law satisfies rational basis review because its requirement that convicted felons financially compensate their victims is rationally related to the state's legitimate interest in punishing crime. Nevertheless, the ex post facto law is unconstitutional and cannot be justified even though it satisfies rational basis review.

(Choice D) The law is *punitive* rather than *remedial* because it increases the punishment for convicted felons. And since that punishment is increased for crimes committed before the law's passage, it is an unconstitutional ex post facto law.

Educational objective:

The Article I, section 10 ex post facto clause prohibits state governments from enacting retroactive criminal laws—eg, laws that impose greater punishment for crimes that were committed before the law became effective.

References

U.S. Const. Art. I, § 10, cl. 1 (prohibiting states from enacting ex post facto laws).

Collins v. Youngblood, 497 U.S. 37, 42–43 (1990) (explaining that a state statute that increases punishment for crimes that were committed before the law became effective is an unconstitutional ex post facto law).

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