

JAN 17 2024

A BILL FOR AN ACT

RELATING TO FINANCIAL SUPPORT OF A CHILD AFTER DRIVING UNDER THE INFLUENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 706, Hawaii Revised Statutes, is
2 amended by adding a new section to part III to be appropriately
3 designated and to read as follows:

4 "§706- Victim restitution; financial support for minor
5 children of victims of driving under the influence. (1)

6 Notwithstanding any law to the contrary, if a defendant is
7 convicted of violating section 707-702.5(1)(a) and the violation
8 caused the death of a parent or legal guardian of a minor child,
9 then the sentencing court shall order the defendant to make
10 restitution in the form of financial support to each surviving
11 child of the victim until the child reaches:

12 (a) Eighteen years of age; or

13 (b) Nineteen years of age if the child is still enrolled
14 in high school.



1 (2) In determining an amount that is reasonable and
2 necessary for the financial support of the victim's child, the
3 court shall consider all relevant factors, including the:

4 (a) Financial needs and resources of the child;

5 (b) Financial resources and needs of the surviving parent
6 or legal guardian of the child;

7 (c) Standard of living to which the child is accustomed;

8 (d) Physical and emotional condition of the child and the
9 child's educational needs;

10 (e) Child's physical and legal custody arrangements; and

11 (f) Reasonable child care expenses of the surviving parent
12 or legal guardian.

13 (3) The court shall order that payments made to
14 financially support the child be made to the clerk of the court
15 as trustee for remittance to the child's surviving parent or
16 legal guardian. The clerk shall:

17 (a) Remit the payments to the surviving parent or legal
18 guardian within three working days of receipt by the
19 clerk; and

20 (b) Deposit all payments no later than the next working
21 day after receipt.



1 (4) If a defendant who is ordered to make restitution in
2 the form of financial support for the child under this section
3 is incarcerated and unable to make the required restitution, the
4 defendant shall have up to one year after the release from
5 incarceration to begin payment, including entering into a
6 payment plan to address any arrearage.

7 (5) If a defendant's payments to financially support the
8 child are set to terminate but the defendant's obligation is not
9 paid in full, the payments to financially support the child
10 shall continue until the entire arrearage is paid.

11 (6) If the surviving parent or legal guardian of the child
12 brings a civil action against the defendant before the
13 sentencing court orders restitution to financially support the
14 child and the surviving parent or legal guardian obtains a
15 judgment and full satisfaction of damages in the civil suit,
16 restitution shall not be ordered under this section.

17 (7) If the court orders the defendant to make restitution
18 to financially support the child under this section and the
19 surviving parent or legal guardian subsequently brings a civil
20 action and obtains a judgment, the restitution order shall be



S.B. NO. 2017

1 offset by the amount of the judgment awarded and paid by the
2 defendant or the defendant's insurance for lost wages."

3 SECTION 2. Section 706-605, Hawaii Revised Statutes, is
4 amended by amending subsection (7) to read as follows:

5 "(7) The court shall order the defendant to make
6 restitution for losses as provided in section 706-646[-] and, if
7 applicable, for the financial support of minor children as
8 provided in section 706- . In ordering restitution, the court
9 shall not consider the defendant's financial ability to make
10 restitution in determining the amount of restitution to order.
11 The court, however, shall consider the defendant's financial
12 ability to make restitution for the purpose of establishing the
13 time and manner of payment."

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

17

INTRODUCED BY: 



S.B. NO. 2017

Report Title:

Negligent Homicide in the First Degree; Driving Under the Influence; Victim Restitution; Child Support

Description:

Requires defendants convicted of causing the death of a parent or legal guardian of a minor child by the operation of a vehicle in a negligent manner while under the influence of drugs or alcohol to make restitution in the form of financial support to each surviving child of the victim.

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