
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
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 or adult dependent child with disabilities, then the sentencing
10 court shall order the defendant to make restitution in the form
11 of financial support to each surviving child of the victim;
12 provided that the court shall order the defendant to make
13 restitution in the form of financial support to each surviving
14 minor child of the victim until the minor child reaches:

15 (a) Eighteen years of age; or



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

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

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

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

9 (c) Physical and emotional condition of the child and the
10 child's educational needs;

11 (d) Child's physical and legal custody arrangements; and

12 (e) Reasonable child care expenses of the surviving parent
13 or legal guardian.

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

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



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

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

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

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

19 (7) If the court orders the defendant to make restitution
20 to financially support the child under this section and the
21 surviving parent or legal guardian subsequently brings a civil



1 action and obtains a judgment, the restitution order shall be
2 offset by the amount of the judgment awarded and paid by the
3 defendant or the defendant's insurance for lost wages."

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

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

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

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



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 or adult dependent child with disabilities 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. (SD1)

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