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# A BILL FOR AN ACT

RELATED TO 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 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.

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



- 1        (a) Financial needs and resources of the child;
- 2        (b) Financial resources and needs of the surviving parent
- 3        or legal guardian of the child;
- 4        (c) Standard of living to which the child is accustomed;
- 5        (d) Physical and emotional condition of the child and the
- 6        child's educational needs;
- 7        (e) Child's physical and legal custody arrangements; and
- 8        (f) Reasonable child care expenses of the surviving parent
- 9        or legal guardian.

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

- 14       (a) Remit the payments to the surviving parent or legal
- 15       guardian within three working days of receipt by the
- 16       clerk; and
- 17       (b) Deposit all payments no later than the next working
- 18       day after receipt.

19       (4) If a defendant who is ordered to make restitution in  
20 the form of financial support for the child under this section  
21 is incarcerated and unable to make the required restitution, the



1 defendant shall have up to one year after the release from  
2 incarceration to begin payment, including entering into a  
3 payment plan to address any arrearage.

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

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

14 (7) If the court orders the defendant to make restitution  
15 to financially support the child under this section and the  
16 surviving parent or legal guardian subsequently brings a civil  
17 action and obtains a judgment, the restitution order shall be  
18 offset by the amount of the judgment awarded and paid by the  
19 defendant or the defendant's insurance for lost wages."

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





# S.B. NO. 3295

**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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

