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# A BILL FOR AN ACT

RELATING TO VICTIM RESTITUTION.

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

1           SECTION 1. The legislature finds that individuals who  
2 selfishly elect to drive under the influence often inflict  
3 serious dismemberment or death upon others. The legislature  
4 further finds that oftentimes the child or children of these  
5 victims are left without the financial support of their parents,  
6 guardians, or remaining family members, and as such, the  
7 financial responsibility of the deceased victim's child or  
8 children falls upon other living members of the family or  
9 society as a whole. As if the death of a family member is not  
10 tragic enough, the unexpected financial responsibility for  
11 raising the victim's child or children until the age of majority  
12 may be overwhelming for some.

13           The legislature further finds that the current punishments  
14 for perpetrators who are apprehended after having caused a motor  
15 vehicle accident that results in the death of another and who  
16 are found to have been operating the motor vehicle while under



1 the influence of drugs or alcohol, do not address the issue of  
2 the care needed for the victim's child or children.

3 Accordingly, the purpose of this Act is to hold those who  
4 drive while under the influence of drugs or alcohol, and cause  
5 the death of another person as a result, financially responsible  
6 for the support of the victim's children until the age of  
7 majority, or until the age of twenty-three for any child who  
8 enrolls full-time in a college, university, vocational school,  
9 or trade school.

10 SECTION 2. Section 706-646, Hawaii Revised Statutes, is  
11 amended by amending subsection (3) to read as follows:

12 "(3) In ordering restitution, the court shall not consider  
13 the defendant's financial ability to make restitution in  
14 determining the amount of restitution to order. The court,  
15 however, shall consider the defendant's financial ability to  
16 make restitution for the purpose of establishing the time and  
17 manner of payment. The court shall specify the time and manner  
18 in which restitution is to be paid~~[=]~~, and where feasible, shall  
19 require restitution under paragraph (e) to be paid before losses  
20 are incurred. While the defendant is in the custody of the  
21 department of corrections and rehabilitation, restitution shall



1 be collected pursuant to chapter 353 and any court-ordered  
2 payment schedule shall be suspended~~[+]~~, except to the extent the  
3 court determines the defendant is financially able to pay  
4 restitution under paragraph (e). Restitution shall be a dollar  
5 amount that is sufficient to reimburse any victim fully for  
6 losses, including but not limited to:

- 7 (a) Full value of stolen or damaged property, as  
8 determined by replacement costs of like property, or  
9 the actual or estimated cost of repair, if repair is  
10 possible;
- 11 (b) Medical expenses, which shall include mental health  
12 treatment, counseling, and therapy;
- 13 (c) Funeral and burial expenses; ~~and~~
- 14 (d) Lost earnings, which shall include paid leave~~[+]~~; and
- 15 (e) If the defendant is convicted of negligent homicide in  
16 the first degree under section 707-702.5(1)(a),  
17 support to raise the decedent's surviving minor  
18 children until each child reaches the age of eighteen,  
19 or until the age of twenty-three for any child who  
20 enrolls full-time in a college, university, vocational  
21 school, or trade school, in an amount to be determined



1           by the court and to be paid to the person responsible  
2           for raising the children."

3           SECTION 3. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6           SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8           SECTION 5. This Act shall take effect on July 1, 2050.

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**Report Title:**

Victim Restitution; Negligent Homicide in the First Degree

**Description:**

Requires, when a defendant is convicted of negligent homicide in the first degree for causing the death of another while driving under the influence of drugs or alcohol, that victim restitution shall include financial support to raise the decedent's surviving minor children until each child reaches the age of eighteen, or until the age of twenty-three for any child who enrolls full-time in a college, university, vocational school, or trade school, in an amount to be determined by the court and to be paid to the person responsible for raising the children. Effective 7/1/2050. (SD1)

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

