

JAN 15 2025

A BILL FOR AN ACT

RELATING TO RESTITUTION.

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 a parent or
8 legal guardian of a child was a victim of the violation, the
9 sentencing court:

10 (a) Shall order the defendant to make restitution in the
11 form of financial support to each surviving child of
12 the victim who is under eighteen years of age; or

13 (b) May order the defendant to make restitution in the
14 form of financial support to each surviving child of
15 the victim who is eighteen years of age or older;

16 provided that the sentencing court shall determine a monthly
17 amount to be paid for the support of the child until the child



1 either attains the age of eighteen or graduates from high
2 school, whichever is later.

3 (2) The court shall determine an amount for restitution
4 under this section that is reasonable and necessary to support
5 the child; provided that, in making this determination, the
6 court shall consider all relevant factors, including the:

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

8 (b) Financial needs and resources of the surviving parent
9 or legal guardian of the child or, if the child
10 welfare services branch of the social services

11 division department of human services, the State ;

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

13 (d) Physical and emotional condition, and any educational
14 needs, of the child;

15 (e) Physical and legal custody arrangements for the child;
16 and

17 (f) The reasonable work-related childcare expenses
18 incurred by the surviving parent, legal guardian, or,
19 if applicable, other current guardian of the child.

20 (3) The court shall order that restitution payments be
21 made to the clerk of the court, who shall act as a trustee and



1 remit the payments to the child's surviving parent, legal
2 guardian, or, if applicable, the department of human services.

3 (4) If a defendant who is ordered to make restitution
4 pursuant to this section is incarcerated and unable to make the
5 required restitution, the defendant shall begin making
6 restitution payments no later than one year after release from
7 incarceration. The defendant may enter into a payment plan to
8 address any arrearage that exists on the date of the defendant's
9 release. The defendant shall pay all arrearages regardless of
10 whether the restitution payments were scheduled to terminate
11 while the defendant was incarcerated.

12 (5) Any amount of restitution actually recovered by the
13 victim from the defendant under this section shall be deducted
14 from any amount that the victim may recover from the defendant
15 in a separate civil judgment arising from the violation
16 described in subsection (a)."

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

19 "(7) The court shall order the defendant to make
20 restitution for losses as provided in [~~section~~] sections
21 706-646[-] and 706-_____. In ordering restitution, the court



1 shall not consider the defendant's financial ability to make
2 restitution in determining the amount of restitution to order.
3 The court, however, shall consider the defendant's financial
4 ability to make restitution for the purpose of establishing the
5 time and manner of payment."

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

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

12

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'R. S.', is written over a horizontal line.

Report Title:

Negligent Homicide in the First Degree; Operating a Vehicle Under the Influence; Victim Restitution; Financial Support; Children

Description:

Provides for the making of restitution by a defendant who has been convicted of violating section 707-702.5(1)(a), HRS, where the violation caused the death of a parent or legal guardian of a child.

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

