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

10 SECTION 2. Section 706-646, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§706-646 Victim restitution.** (1) As used in this
13 section, "victim" includes any of the following:

14 (a) The direct victim of a crime including a business
15 entity, trust, or governmental entity;

16 (b) If the victim dies as a result of the crime, a
17 surviving relative of the victim as defined in chapter
18 351;

19 (c) A governmental entity that has reimbursed the victim
20 for losses arising as a result of the crime or paid



1 for medical care provided to the victim as a result of
2 the crime; or

3 (d) Any duly incorporated humane society or duly
4 incorporated society for the prevention of cruelty to
5 animals, contracted with the county or State to
6 enforce animal-related statutes or ordinances, that
7 impounds, holds, or receives custody of a pet animal
8 pursuant to section 711-1109.1, 711-1109.2, or
9 711-1110.5; provided that this section does not apply
10 to costs that have already been contracted and
11 provided for by the counties or State.

12 (2) The court shall order the defendant to make
13 restitution for reasonable and verified losses suffered by the
14 victim or victims as a result of the defendant's offense when
15 requested by the victim. The court shall order restitution to
16 be paid to the crime victim compensation commission if the
17 victim has been given an award for compensation under chapter
18 351. If the court orders payment of a fine in addition to
19 restitution or a compensation fee, or both, the payment of
20 restitution and compensation fee shall be made pursuant to
21 section 706-651.



1 (3) In ordering restitution, the court shall not consider
2 the defendant's financial ability to make restitution in
3 determining the amount of restitution to order. The court,
4 however, shall consider the defendant's financial ability to
5 make restitution for the purpose of establishing the time and
6 manner of payment. The court shall specify the time and manner
7 in which restitution is to be paid[-], and where feasible, shall
8 require restitution under paragraph (e) to be paid prior to
9 losses being incurred. While the defendant is in the custody of
10 the department of public safety, restitution shall be collected
11 pursuant to chapter 353 and any court-ordered payment schedule
12 shall be suspended[-], except to the extent the court determines
13 the defendant is financially able to pay restitution under
14 paragraph (e). Restitution shall be a dollar amount that is
15 sufficient to reimburse any victim fully for losses, including
16 but not limited to:

- 17 (a) Full value of stolen or damaged property, as
18 determined by replacement costs of like property, or
19 the actual or estimated cost of repair, if repair is
20 possible;



1 (b) Medical expenses, which shall include mental health
2 treatment, counseling, and therapy;

3 (c) Funeral and burial expenses; [~~and~~]

4 (d) Lost earnings, which shall include paid leave[~~-~~]; and

5 (e) If the defendant is convicted of negligent homicide in
6 the first degree under section 707-702.5(1)(a),
7 support to raise the decedent's surviving minor
8 children until each child reaches the age of eighteen,
9 or until the age of twenty-three for any child who
10 enrolls full-time in a college, university, vocational
11 school, or trade school, in an amount to be determined
12 by the court and to be paid to the person responsible
13 for raising the children.

14 (4) In any criminal proceeding before any court, all money
15 deposited by the defendant as bail and not declared forfeited
16 shall be applied toward payment of any restitution, fines, or
17 fees ordered by the court in the same case, consistent with the
18 priorities in subsection (2).

19 (5) The restitution ordered shall not affect the right of
20 a victim to recover under section 351-33 or in any manner
21 provided by law; provided that any amount of restitution



1 actually recovered by the victim under this section shall be
2 deducted from any award under section 351-33."

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 upon its approval.

9

INTRODUCED BY: _____



JAN 21 2022



H.B. NO. 1916

Report Title:

Victim Restitution; Negligent Homicide in the First Degree

Description:

Requires, when a defendant is convicted of negligent homicide in the first degree under section 707-702.5(1)(a), victim restitution to 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.

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