

SUBJECT: Requiring restitution for children of intoxication manslaughter victims

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline
0 nays

WITNESSES: For — Carol Levin, Mothers Against Drunk Driving; (*Registered, but did not testify*: Jennifer Szimanski, Combined Law Enforcement Associations of Texas (CLEAT); James Parnell, Dallas Police Association; Jessica Anderson, Houston Police Department; Ray Hunt, Houston Police Officers' Union; Kevin Hale, Libertarian Party of Texas; Todd McCoy, Montgomery County S.O.; Jack Armstrong, Michael Landrum, Justin Schutzenhofer, Michael Uber, and Jason Prince, Montgomery County Sheriff's Office; Lindy Borchardt, Tarrant County Criminal District Attorney; Amy Bresnen, Texas Family Law Foundation; John Wilkerson, Texas Municipal Police Association; Mary Palmer; Thomas Parkinson; Jason Vaughn)

Against — None

On — (*Registered, but did not testify*: Joyce H.)

DIGEST: CSHB 393 would require a defendant convicted of intoxication manslaughter to pay restitution to a child whose parent or guardian was the victim of the offense. A court would be required to determine the amount to be paid monthly for the support of the child until the child turned 18 or graduated high school, whichever would be later. A defendant would not be required to pay restitution to an individual who was 19 or older.

In addition to considering the amount of loss sustained by the victim's child and the amount paid to the victim's child by the compensation to victims crime fund, the court would be required to consider certain factors

when determining an amount for restitution, including:

- the financial needs and resources of the child;
- the financial needs and resources of the surviving parent or guardian or other current guardian of the child, or if applicable, the financial resources of the state if the Department of Family and Protective Services (DFPS) was appointed as conservator of the child;
- the standard of living to which the child was accustomed;
- the physical and emotional condition of the child and the child's educational needs;
- the child's physical and legal custody arrangements;
- the reasonable work-related child care expenses of the surviving parent or guardian of child, if applicable; and
- the financial resources of the defendant.

CSHB 393 would require the order to be directed to the parents or guardian of the child or DFPS, as applicable. The bill would require any amount of restitution paid to the victim's child to be deducted from any civil judgment against the defendant.

If a defendant was unable to make required restitution payments because the defendant was confined or imprisoned, the defendant would be required to begin making payments within the first year of the defendant's release from the correctional facility. The defendant could enter into a payment plan to address any arrearage that existed on the date of the defendant's release. If the restitution payments were scheduled to end while the defendant was confined or imprisoned, the defendant still would be required to pay all arrearages.

A restitution order could be enforced by the office of the attorney general or by a person or a parent or guardian of the person named in the order.

The bill would take effect September 1, 2023, and would apply only to an offense committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 393 would help provide justice to children of the victims of intoxication manslaughter by requiring defendants to pay restitution to the child. Under current law, an intoxicated driver who causes the death of a parent is not liable for restitution payments to the victim's child, which creates a financial burden for impacted families. By creating an avenue through which victims' children could receive child support payments from perpetrators of intoxication manslaughter, CSHB 393 would ensure that defendants were held accountable and families received sufficient support.

Additionally, by requiring the court to consider the defendants' financial resources, CSHB 393 would not impose an excessive financial burden on defendants.

**CRITICS
SAY:**

No concerns identified.