
**Community Safety, Justice, & Reentry
Committee**

HB 1668

Brief Description: Concerning restitution for surviving minor children of deceased victims of vehicular homicide.

Sponsors: Representatives Donaghy, Low, Reeves, Ramel, Chambers, Bronoske, Eslick, Chapman, Macri, Schmidt, Kloba, Robertson, Hutchins, Davis and Ryu.

Brief Summary of Bill

- Establishes a form of restitution that courts must impose when a person is convicted of vehicular homicide resulting in the death of a parent of a minor child or children.

Hearing Date: 2/13/23

Staff: Michelle Rusk (786-7153).

Background:

Restitution.

Restitution is a sum ordered by the sentencing court to be paid by an offender over a specified period of time as payment for a victim's damages. A sentencing court must order restitution whenever a victim of a crime is entitled to crime victims compensation benefits, and when an offense results in injury to any person, or damage to or loss of property, unless a court finds extraordinary circumstances make restitution inappropriate.

A restitution order must be based on easily ascertainable damages for injury to property, expenses incurred for treatment of personal injuries, lost wages, and counseling that is reasonably related to the offense. Restitution may not be imposed for damages for mental

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anguish, pain and suffering, or other intangible losses, and may not exceed double the amount of an offender's gain or a victim's loss. An award of restitution does not, however, limit civil remedies or defenses available to a victim, a victim's survivors, or a defendant.

In ordering restitution, the court must consider the total amount of restitution owed, the offender's present, past, and future ability to pay, and any assets the offender may have. The court may modify the terms of a restitution order, but may not reduce the total amount of restitution ordered because an offender lacks the ability to pay the total amount, and may not issue an order postponing restitution payments until after an offender is released from total confinement. An offender will remain under the court's jurisdiction until a restitution obligation is satisfied, regardless of the statutory maximum for the crime.

Specific restitution is available for the crime of rape of a child in the first, second, or third degree, in which the victim becomes pregnant. This restitution includes: (1) all of the victim's medical expenses that are associated with the rape and resulting pregnancy; and (2) child support for any child born as a result of the rape if child support is ordered pursuant to a civil superior court or administrative order for support for that child. The clerk must forward any restitution payments made on behalf of the victim's child to the Washington state child support registry. The court may not reduce the total amount of restitution ordered because the offender may lack the ability to pay the total amount.

Vehicular Homicide.

Vehicular homicide is a class A felony ranked at either seriousness level XI or VII, depending on the circumstances. A person is guilty of vehicular homicide if the death of any person ensued within three years as a proximate result of injury proximately caused by the driver's operation of a motor vehicle:

- while under the influence of an intoxicating liquor or any drug;
- in a reckless manner; or
- with disregard for the safety of others.

Summary of Bill:

Restitution.

A new form of restitution is established that courts must impose when a person is convicted of vehicular homicide resulting in the death of a parent of a minor child. A court must order a person convicted to pay restitution in the form of child maintenance to each of a victim's children until they are 18 and have graduated high school, or the class of which the child is a member has reached 18 and graduated from high school.

Restitution must be in an amount reasonable or necessary for maintenance of the children, after considering all relevant factors, including:

- the financial needs and resources of the child or children;
- the financial resources and needs of the surviving parent or guardian(s);

- the physical and emotional condition, and educational needs, of the child or children;
- the child or children's physical and legal custody arrangement; and
- the reasonable work-related child care expenses of the surviving parent or guardians.

Restitution may be offset, or not ordered, if a surviving parent or guardian obtains a civil judgement.

Appropriation: None.

Fiscal Note: Requested on February 10, 2023

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.