
DIGEST

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HB 439 Reengrossed

2023 Regular Session

Bryant

Abstract: Creates the Victims of Vehicular Homicide Fund and provides relative to the payment of reparations.

Present law (R.S. 46:1807), relative to the Crime Victims Reparations Board (board), requires the board to take certain actions in regard to the performance of its powers and duties.

Proposed law adds that the board shall also take such actions and perform such other functions as are required by proposed law (relative to Victims of Vehicular Homicide Act).

Proposed law creates the Victims of Vehicular Homicide Act and provides for definitions for certain terms, including but not limited to: board, collateral source, pecuniary loss, and victim.

Proposed law creates the Victims of Vehicular Homicide Fund as a special fund in the treasury from which awards under the proposed law shall be paid.

Proposed law authorizes the board to make an award and order the payment of reparations for pecuniary loss for death resulting from the present law offense of vehicular homicide (R.S. 14:32.1), if the offender failed to maintain compulsory motor vehicle liability security pursuant to present law (R.S. 32:861).

Proposed law provides for the requirements for applications and provides that applications for reparations shall be filed in writing with the board within one year after the date of the death or within such longer period as the board determines is justified by the circumstances. Requires certain reasonable documentation to be submitted with the application.

Proposed law provides that certain information shall be confidential when submitted to the board.

Proposed law provides that the board shall order payments of reparations without hearings.

Proposed law requires the board to order the payment of reparations in an amount determined by it if, with or without hearings, it finds by a preponderance of evidence that pecuniary loss was sustained by reason of death and that such loss was proximately caused by the crime of vehicular homicide.

Proposed law provides that awards payable under proposed law shall not exceed \$50,000 in the aggregate for all claims arising out of the same crime. Further authorizes the board to order the

payment of an award in a lump sum or in installments.

Proposed law authorizes the board to make an emergency award pending its final decision in the case. Provides that an emergency award shall not exceed \$1,000.

Proposed law provides that whenever any person is convicted of vehicular homicide or operating a vehicle while intoxicated and an order for the payment of reparations is or has been made pursuant to proposed law, the attorney general, within one year after the date on which the judgment of conviction becomes final, may institute a civil action against the convicted person for the recovery for all or any part of the reparations payment. Further provides that any amount recovered shall be deposited in the state treasury and credited to the Victims of Vehicular Homicide Fund.

Proposed law provides that in addition to any other costs otherwise imposed by present law a cost of not less than \$50,000 for vehicular homicide or operating a motor vehicle while intoxicated is levied in each criminal action which results in a conviction or guilty plea. Provides that the cost is paid by the defendant and a periodic payment plan may be ordered.

Proposed law requires the board to submit an annual report to the legislature and the governor detailing its activities during the preceding year.

Proposed law provides that the state shall not be liable for the claim of any applicant in excess of the funds appropriated for the payment of claims under proposed law.

Proposed law terminates the fund on Aug. 1, 2027.

(Amends R.S. 44:4.1(B)(31) and R.S. 46:1807(A); Adds R.S. 46:1807(B)(8) and 1823-1838)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Add documentation of failure to maintain compulsory motor vehicle insurance as a form of reasonable documentation.
2. Add a copy of the death certificate in lieu of any documentation the board deems sufficient.
3. Remove provisions for emergency awards.
4. Add an amount of \$25,000 in reparations for survivors when there is only one victim of vehicular homicide and an amount of \$50,000 when there are two or more victims of vehicular homicide.
5. Remove the requirement of hearings and all related evidentiary and procedural provisions.

6. Require the monies for the fund to be derived from the legislature or private funds not to exceed \$50,000.
7. Remove court cost of \$50,000 imposed on persons convicted of vehicular homicide or driving while intoxicated.
8. Remove the award of attorney fees.
9. Terminate the fund on Aug. 1, 2027.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Add a cross reference to present law open meetings law exceptions (R.S. 44:4.1(B)(31)).
2. Add language that the fund created in proposed law is a special fund in the state treasury.
3. Add language providing for investment of monies in the fund and unexpended and unencumbered monies in the fund at the end of the fiscal year.
4. Add that subject to appropriation monies in the fund shall be used solely for reparations.
5. Make technical changes.