

2022 Regular Session

HOUSE BILL NO. 51

BY REPRESENTATIVES GOUDEAU AND MIKE JOHNSON AND SENATOR CATHEY

CRIME/HOMICIDE: Provides relative to vehicular homicide

1 AN ACT

2 To enact Code of Criminal Procedure Article 883.2(E) and R.S. 14:32.1(E), relative to
3 operating a vehicle while intoxicated; to provide relative to the crime of vehicular
4 homicide; to provide relative to penalties of the crime of vehicular homicide; to
5 require certain payments for the support of the minor child of the victim; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 883.2(E) is hereby enacted to read
9 as follows:

10 Art. 883.2. Restitution to victim

11 * * *

12 E.(1) Whoever commits the crime of vehicular homicide shall be ordered by
13 the court to pay restitution to the child of the victim until the child reaches eighteen
14 years of age, except if the child reaches eighteen years of age and is enrolled in and
15 attending high school or a general education development test preparation program
16 or a postsecondary institution, then restitution shall continue to be paid if the child
17 continues to attend and progress toward completion until the child completes such
18 program or reaches twenty-one years of age, whichever first occurs.

1 (2) The court shall order the offender to pay restitution in an amount that is
2 reasonable and necessary for the support of the child after considering all relevant
3 factors, including but not limited to:

4 (a) The financial needs and resources of the child.

5 (b) The financial resources and needs of the surviving parent or, if no other
6 parent is alive or capable of caring for the child, the guardian of the child, including
7 the state if the state is the guardian.

8 (c) The standard of living the child would have enjoyed if the parent would
9 have survived.

10 (d) The physical and emotional condition and the educational needs of the
11 child.

12 (e) The physical and legal custody arrangements of the child.

13 (f) The reasonable work-related child care expenses of the surviving parent
14 or guardian.

15 (3) If an offender ordered to pay restitution under this Subsection is
16 incarcerated and unable to pay the required support, the person shall have up to one
17 year after the release from incarceration to begin payment, including any arrearage.

18 (4) If any obligation under this Section is to terminate as provided under
19 Paragraph (1) of this Subsection but the offender's obligation is not paid in full,
20 payments shall continue until the entire arrearage is paid.

21 (5)(a) If the surviving parent or guardian of the child brings a civil action
22 against the offender prior to the issuance of a restitution order under this Subsection
23 and the surviving parent or guardian obtains a judgment in his favor in the civil suit,
24 no restitution shall be ordered under this Subsection.

25 (b) If the court orders restitution under this Subsection and the surviving
26 parent or guardian brings a civil action against the offender and obtains a judgment
27 in his favor, the restitution order may offset the judgment awarded in the civil action.

1 Section 2. R.S. 14:32.1(E) is hereby enacted to read as follows:

2 §32.1. Vehicular homicide

3 * * *

4 E. In addition to the penalties provided in this Section, a person convicted
5 of a violation of this Section shall be ordered to make restitution as provided in Code
6 of Criminal Procedure Article 883.2.

7 Section 3. This Act shall be cited and referred to as "Cody's Law".

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 51 Engrossed

2022 Regular Session

Goudeau

Abstract: Provides relative to the penalties for the crime of vehicular homicide and requires the court to order restitution payments to the minor child of the victim of the offense.

Present law (C.Cr.P. Art. 883.2) provides for restitution.

Proposed law retains present law and requires the offender to make payments to the victim's minor child until the child reaches the age of 18 or if enrolled and attending high school or a GED test prep program or a postsecondary institution, then payments continue until completion of the program or the child reaches the age of 21, whichever occurs first.

Proposed law provides a list of factors to consider in the determination of the amount of the restitution payments.

Proposed law further provides that if a civil suit is brought against the offender prior to a restitution order, then a restitution order shall not be ordered in accordance with proposed law.

Proposed law specifies that if the court orders restitution and a judgment was obtained from a civil suit in favor of the surviving parent or guardian, the restitution order may offset the judgment awarded.

Present law (R.S. 14:32.1) provides that the crime of vehicular homicide is the killing of a human being caused by an offender engaged in the operation of any motor vehicle, aircraft, watercraft, or other means of conveyance while the offender was under the influence of alcohol, a controlled dangerous substance, or a combination of both that was a contributing factor to the killing.

Present law also provides penalties for the crime of vehicular homicide.

Proposed law retains present law and provides that in addition to the penalties provided in present law, a person convicted of a violation of present law shall be ordered to make restitution as provided in present law (C.Cr.P. Art. 883.2).

Provides that proposed law shall be referred to as "Cody's Law".

(Adds C.Cr.P. Art. 883.2(E) and R.S. 14:32.1(E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Add language that provides for an offender's payment of court-ordered restitution to the child of the victim if the offender commits the crime of vehicular homicide.
3. Delete language that refers to court ordered child support restitution payments made to the child support enforcement section of the DCFS.
4. Remove all references to child support.
5. Add payment of restitution to the penalties of vehicular homicide.
6. Provide that proposed law be referred to as "Cody's Law".