

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, at the termination or end of the defendant's term of supervision, any  
19          restitution ordered by the court remains outstanding, the balance of the unpaid  
20          restitution shall be reduced to a civil money judgment in favor of the person to whom  
21          restitution is owed, which may be enforced in the same manner as provided for the  
22          execution of judgments pursuant to the Code of Civil Procedure.

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

27          (b) If the court orders restitution under this Subsection and the surviving  
28          parent or guardian brings a civil action against the offender and obtains a judgment  
29          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 Reengrossed

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 provides that if the offender is ordered to pay restitution and is incarcerated and unable to pay, the offender shall have up to one year after release to begin payment.

Proposed law provides that if an outstanding balance remains at the end of supervision, the unpaid balance shall be reduced to a civil money judgment.

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".

The House Floor Amendments to the engrossed bill:

1. Replace the reference regarding termination of the offender's obligation to pay with a reference to the reduction of unpaid restitution to a civil money judgment.