

RÉSUMÉ DIGEST

HB 91

2023 Regular Session

Goudeau

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

Proposed law would have allowed a court to order an offender who committed the crime of vehicular homicide to make payments to the victim's minor child until the child reached the age of 18. Proposed law would have further provided that if the child reached the age of 18 and was enrolled in a program of study which upon completion would have entitled him to be issued a high school equivalency diploma, then the restitution would have continued to be paid until the child either earned such diploma or reached the age of 21, whichever first occurred.

Proposed law would have required the court to calculate the restitution payments using the guidelines set forth under present law (R.S. 9:315).

Proposed law would have specified that if the court ordered restitution and a judgment was obtained from a civil suit in favor of the surviving parent or guardian, the restitution order would have been required to adopt the civil judgment.

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 would have provided that in addition to the penalties provided in present law, a person convicted of a violation of present law may have also been ordered to make restitution as provided in present law.

Proposed law would have been referred to as "Cody's Law".

(Proposed to add C.Cr.P. Art. 883.2(E) and R.S. 14:32.1(E))

VETO MESSAGE:

"House Bill 91 is an attempt to provide restitution in the form of child support payments for minor survivors of victims of vehicular homicide, but falls short of providing clear direction to the various courts and parties on how this would be implemented. For example, the legislation requires the criminal court to calculate restitution pursuant to the guidelines in La. R.S. 9:315. That statute, however, is the definition section of Louisiana's child support law, and provides no mechanism for the calculation, or modification thereof, for the amount of child support an obligor would be required to pay. Would a child support obligor under the criminal restitution statute be entitled to modification for material circumstances? Which court would the defendant obligor apply to? Would the criminal court retain jurisdiction over defendant obligor until the child survivor attains the age they are no longer entitled to child support?

Further, the legislation also requires a criminal court that has required a restitution order to adopt the civil judgment a surviving parent or guardian may obtain against the defendant obligor. The plain reading of the legislation leaves many questions. Is the adoption of the civil order in lieu of the ordered child support payments? Is adoption of the civil judgment in addition to the required child support payments? Does requiring the criminal court to adopt the civil judgment bestow upon the criminal court the power to hold the defendant obligor in criminal contempt if he does not pay his civil judgment?

Although the legislation appears on its face to be well-intentioned, there are too many unknowns and questions remaining for it to become law, and therefore, it has been vetoed."