

1-1 By: Goldman, et al. (Senate Sponsor - Paxton) H.B. No. 393
 1-2 (In the Senate - Received from the House April 11, 2023;
 1-3 April 12, 2023, read first time and referred to Committee on
 1-4 Criminal Justice; May 11, 2023, reported favorably by the
 1-5 following vote: Yeas 6, Nays 0; May 11, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Whitmire	X			
1-8 Flores	X			
1-9 Bettencourt			X	
1-10 Hinojosa	X			
1-11 Huffman	X			
1-12 King	X			
1-13 Miles	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to restitution payments for the support of a child whose
 1-18 parent or guardian is a victim of intoxication manslaughter.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Chapter 42, Code of Criminal Procedure, is
 1-21 amended by adding Article 42.0375 to read as follows:

1-22 Art. 42.0375. MANDATORY RESTITUTION FOR CHILD OF VICTIM OF
 1-23 INTOXICATION MANSLAUGHTER. (a) The court shall order a defendant
 1-24 convicted of an offense under Section 49.08, Penal Code, to pay
 1-25 restitution for a child whose parent or guardian was the victim of
 1-26 the offense.

1-27 (b) Notwithstanding Article 42.037(g) and subject to
 1-28 Subsection (c), the court shall determine an amount to be paid
 1-29 monthly for the support of the child until the child reaches 18
 1-30 years of age or has graduated from high school, whichever is later.

1-31 (c) The defendant may not be required to pay restitution
 1-32 under this article to an individual who is 19 years of age or older.

1-33 (d) The court shall determine an amount for restitution
 1-34 under this article that is reasonable and necessary to support the
 1-35 child, considering all relevant factors including:

1-36 (1) the financial needs and resources of the child;

1-37 (2) the financial needs and resources of the surviving
 1-38 parent or guardian or other current guardian of the child or, if
 1-39 applicable, the financial resources of the state if the Department
 1-40 of Family and Protective Services has been appointed as temporary
 1-41 or permanent managing conservator of the child;

1-42 (3) the standard of living to which the child is
 1-43 accustomed;

1-44 (4) the physical and emotional condition of the child
 1-45 and the child's educational needs;

1-46 (5) the child's physical and legal custody
 1-47 arrangements;

1-48 (6) the reasonable work-related child care expenses of
 1-49 the surviving parent or guardian or other current guardian, if
 1-50 applicable; and

1-51 (7) the financial resources of the defendant.

1-52 (e) The order must require restitution payments to be:

1-53 (1) delivered in the manner described by Article
 1-54 42.037(g-2)(1) or (3), as appropriate; and

1-55 (2) directed to the parent or guardian of the child or
 1-56 the Department of Family and Protective Services, as applicable.

1-57 (f) If a defendant ordered to pay restitution under this
 1-58 article is unable to make the required restitution payments because
 1-59 the defendant is confined or imprisoned in a correctional facility,
 1-60 the defendant shall begin payments not later than the first
 1-61 anniversary of the date of the defendant's release from the

2-1 facility. The defendant may enter into a payment plan to address
2-2 any arrearage that exists on the date of the defendant's release.
2-3 The defendant must pay all arrearages regardless of whether the
2-4 restitution payments were scheduled to terminate while the
2-5 defendant was confined or imprisoned in the correctional facility.

2-6 (g) The amount of restitution paid under this article shall
2-7 be deducted from any civil judgment against the defendant as
2-8 provided by Article 42.037(f)(2).

2-9 (h) A restitution order issued under this article may be
2-10 enforced by the office of the attorney general, or by a person or a
2-11 parent or guardian of the person named in the order to receive the
2-12 restitution, in the same manner as a judgment in a civil action.

2-13 SECTION 2. The change in law made by this Act applies only
2-14 to an offense committed on or after the effective date of this Act.
2-15 An offense committed before the effective date of this Act is
2-16 governed by the law in effect on the date the offense was committed,
2-17 and the former law is continued in effect for that purpose. For
2-18 purposes of this section, an offense was committed before the
2-19 effective date of this Act if any element of the offense occurred
2-20 before that date.

2-21 SECTION 3. This Act takes effect September 1, 2023.

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