

By: Swanson

H.B. No. 210

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

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

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

- (1) the financial needs and resources of the child;
- (2) the financial needs and resources of the surviving parent or guardian or other current guardian of the child or, if applicable, the financial resources of the state if the Department

of Family and Protective Services has been appointed as temporary or permanent managing conservator of the child;

(3) the standard of living to which the child is accustomed;

(4) the physical and emotional condition of the child and the child's educational needs;

(5) the child's physical and legal custody arrangements; and

(6) the reasonable work-related child care expenses of the surviving parent or guardian or other current guardian, if applicable.

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

(1) delivered in the manner described by Article [42.037\(g-2\)\(3\)](#); and

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

(f) If a defendant ordered to pay restitution under this article is unable to make the required restitution payments because the defendant is confined or imprisoned in a correctional facility, the defendant shall begin payments not later than the first anniversary of the date of the defendant's release from the facility. The defendant may enter into a payment plan to address any arrearage that exists on the date of the defendant's release. The defendant must pay all arrearages regardless of whether the restitution payments were scheduled to terminate while the defendant was confined or imprisoned in the correctional facility.

(g) The amount of restitution paid under this article shall

1 be deducted from any civil judgment against the defendant as
2 provided by Article 42.037(f)(2).

3 (h) A restitution order issued under this article may be
4 enforced by the state, or by a person or a parent or guardian of the
5 person named in the order to receive the restitution, in the same
6 manner as a judgment in a civil action.

7 SECTION 2. The change in law made by this Act applies only
8 to an offense committed on or after the effective date of this Act.
9 An offense committed before the effective date of this Act is
10 governed by the law in effect on the date the offense was committed,
11 and the former law is continued in effect for that purpose. For
12 purposes of this section, an offense was committed before the
13 effective date of this Act if any element of the offense occurred
14 before that date.

15 SECTION 3. This Act takes effect September 1, 2023.