

House Bill 2707

Sponsored by Representatives SCHARF, GAMBA; Representatives CATE, HIEB, LEVY B, MORGAN, Senator WEBER (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires sentencing court to order person convicted of drunk driving offense that resulted in death of victim to pay restitution to surviving child of victim in form of child maintenance.

A BILL FOR AN ACT

1
2 Relating to restitution for surviving children of deceased victim of drunk driving.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **“Surviving child” means a surviving minor child of the victim.**

6 (b) **“Surviving parent” means the surviving spouse of the victim who is the parent of a**
7 **surviving child.**

8 (c) **“Work-related child care expenses” means expenses for the care of a surviving child**
9 **due to the employment of the surviving parent.**

10 (2) **Notwithstanding any statute or rule to the contrary, and subject to subsection (6) of**
11 **this section, when a person is convicted of any of the following offenses and the deceased**
12 **victim of the offense was the parent of a minor child, the sentencing court shall order the**
13 **person to pay restitution in the form of child maintenance to each surviving child:**

14 (a) **Manslaughter in the second degree as described in ORS 163.125 that resulted from the**
15 **person’s driving of a motor vehicle while under the influence of intoxicants; or**

16 (b) **Aggravated vehicular homicide as described in ORS 163.149.**

17 (3) **The court shall determine an amount that is reasonable and necessary to be paid as**
18 **child maintenance to a surviving child under this section. In determining the amount of**
19 **maintenance to be paid, the court shall consider the following factors:**

20 (a) **The financial needs and resources of the surviving child;**

21 (b) **The financial needs and resources of the surviving parent or the guardian of the**
22 **surviving child, including the resources of the state if the surviving child is in state custody;**

23 (c) **The standard of living to which the surviving child is accustomed;**

24 (d) **The physical and emotional condition of the surviving child and any necessary re-**
25 **sources to support such condition;**

26 (e) **The education needs of the surviving child;**

27 (f) **The surviving child’s physical and legal custody arrangements; and**

28 (g) **Any work-related child care expenses of the surviving parent or the guardian of the**
29 **surviving child.**

30 (4) **A person shall pay restitution ordered under subsection (2) of this section to each**
31 **surviving child until the surviving child reaches 18 years of age and receives a certificate of**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **graduation from high school or the recognized equivalent of such a certificate.**

2 **(5) Restitution amounts paid under this section shall be made to the clerk of the court**
3 **as trustee for remittance to the surviving parent or guardian of the surviving child within**
4 **three business days of receipt of the restitution payment.**

5 **(6)(a) If the court finds that the person is unable to pay the child maintenance ordered**
6 **under this section due to the person's incarceration, the court may suspend enforcement of**
7 **the order for the period of incarceration and for the one-year period immediately following**
8 **the person's release from incarceration.**

9 **(b) Nothing in paragraph (a) of this subsection is intended to relieve a person of the ob-**
10 **ligation to pay in full to a surviving child the maintenance support that was owed to the**
11 **surviving child during a period for which enforcement was suspended.**

12 **(7)(a) Nothing in this section limits or impairs the right of a surviving parent or a**
13 **guardian of the surviving child to sue in a civil action for damages suffered as a result of the**
14 **offenses described in subsection (1) of this section.**

15 **(b) The court shall credit any restitution ordered under this section against any judgment**
16 **awarding economic damages in a subsequent civil action.**

17 **(c) If a judgment in a civil action awarding damages is entered into prior to a judgment**
18 **in a criminal action, the sentencing court may not order child maintenance to be paid as**
19 **restitution under this section.**

20 **SECTION 2. Section 1 of this 2023 Act applies to offenses committed and convictions en-**
21 **tered on or after the effective date of this 2023 Act.**

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