

BILL ANALYSIS

Senate Research Center
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H.B. 393
By: Goldman et al. (Paxton)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Like other meaningful legislation, the impetus of Bentley's Law stems from a tragedy affecting the lives of Bentley and Mason, whose parents were tragically killed due to a drunk driver. Their grandmother tirelessly pursued legislation which would require drunk drivers convicted of killing a parent to pay child support to surviving minor children; and in 2022, the Tennessee Legislature was the first state to pass such legislation now known as "Ethan's, Hailey's, and Bentley's Law" to honor Tennessee children who lost their father due to a drunk driver.

H.B. 393 requires impaired drivers to pay civil restitution when an impaired driver causes the death of a parent. This legislation ensures greater accountability and provides another avenue of restitution to affected victims.

H.B. 393 amends Chapter 42 of the Texas Code of Criminal Procedure by adding Section 42.0375, titled Mandatory Restitution for Child of Victim of Intoxication Manslaughter:

- The court shall order defendants convicted of intoxication manslaughter (Section 49.08, Penal Code) to pay restitution payments directed to a child (up until age 18 or high school graduation) by a drunk driver who kills a parent as a result of drunk driving.
- The court shall determine the amount of restitution payments based a set of criteria and the method of payments.
- The defendant is not required to pay restitution to an individual who is 19 years or older.
- If the defendant is unable to pay due to incarceration as a result of drunk driving, the defendant shall begin payments within one year of being released from jail in a payment plan that is agreed to by the court. The state has enforcement authority to remit these payments.

(Intoxication Manslaughter is a second degree felony with sentences ranging from 2-20 years and a fine up to \$10,000.)

Support:

H.B. 393 passed the Texas House 142-0 without any testimony in opposition.

Mothers Against Drunk Driving (MADD): "MADD supports Bentley's Law and similar bills that hold drunk driving offenders accountable. Too often, offenders are able to move on with their lives even after killing someone, while victims and survivors are reminded every day of their loss. The idea behind Bentley's Law is to both provide a sense of justice to victims and survivors and make sure offenders are reminded of the heartbreak they caused by making the choice to drive impaired."

H.B. 393 amends current law relating to restitution payments for the support of a child whose parent or guardian is a victim of intoxication manslaughter.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.0375, as follows:

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

(b) Requires the court, notwithstanding Article 42.037(g) (relating to authorizing the court to require a defendant to make restitution within a specified period or in specified installments) and subject to Subsection (c), to 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) Prohibits the defendant from being required to pay restitution under this article to an individual who is 19 years of age or older.

(d) Requires the court to 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 (DFPS) 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;

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

(7) the financial resources of the defendant.

(e) Requires that the order require restitution payments to be:

(1) delivered in the manner described by Article 42.037(g-2)(1) (relating to requiring the defendant to make restitution directly to the person or agency that will accept and forward restitution payments to the victim) or (3) (relating to requiring the defendant to deliver the amount or property due as restitution to a community supervision and corrections department for transfer to the victim), as appropriate; and

(2) directed to the parent or guardian of the child or DFPS, as applicable.

(f) Requires a defendant, if the 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, to begin payments not later than the first anniversary of the date of the defendant's release from the facility. Authorizes the defendant to enter into a payment plan to address any arrearage that exists on the date of the defendant's release. Requires the defendant to 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) Requires that the amount of restitution paid under this article be deducted from any civil judgment against the defendant as provided by Article 42.037(f)(2) (relating to providing that any amount recovered by a victim from a person ordered to pay restitution in a federal or state civil proceeding is reduced by any amount previously paid to the victim by the person under an order of restitution).

(h) Authorizes a restitution order issued under this article to be enforced by the office of the attorney general, or by a person or a parent or guardian of the person named in the order to receive the restitution, in the same manner as a judgment in a civil action.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2023.