

# SENATE BILL REPORT

## HB 2405

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As of February 23, 2012

**Title:** An act relating to ordering offenders convicted of vehicular homicide due to alcohol or drugs to pay child support for the victims' minor children.

**Brief Description:** Ordering offenders convicted of vehicular homicide due to alcohol or drugs to pay child support for the victims' minor children.

**Sponsors:** Representatives Goodman, Rodne, Hurst, Kelley, Pearson, Van De Wege, Fitzgibbon, Ormsby, Hasegawa, Pollet, Miloscia and Blake.

**Brief History:** Passed House: 2/13/12, 95-3.

**Committee Activity:** Judiciary: 2/22/12.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Katherine Taylor (786-7434)

**Background:** Vehicular Homicide While Driving Under the Influence. A person commits the crime of Vehicular Homicide if the person's driving of a vehicle proximately causes the death of another person and if the person was driving the vehicle: (1) while under the influence of alcohol or drugs; (2) in a reckless manner; or (3) with disregard for the safety of others.

Restitution. When a defendant is convicted of a crime, the sentencing court may impose legal financial obligations as part of the judgment and sentence. Legal financial obligations include victim restitution. An offender's payments toward legal financial obligations are applied first to restitution and then proportionally to other monetary obligations after restitution has been satisfied. The court must set a minimum monthly payment that the defendant must make towards the restitution. The court must take into consideration the total amount of the restitution owed; the defendant's present, past, and future ability to pay; as well as any assets that the defendant may have. Restitution must be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment of injuries, and lost wages due to injury. Restitution may not include damages for mental anguish or other intangible losses.

Child Support Limitations. Under the child support schedule, a parent's child support obligation may not exceed 45 percent of the parent's net income. In addition, a parent's basic

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support obligation may not reduce the parent's net income below 125 percent of the federal poverty level, except for a presumptive minimum amount of \$50 per child or when it would be unjust to apply the self- support reserve amount.

**Summary of Bill:** Restitution for the crime of Vehicular Homicide while driving under the influence may include payments to help support the minor children of the victim of the vehicular homicide. Minor children means children under the age of 18 at the time restitution is ordered.

The court may order restitution irrespective of any court order or administrative order of support for the children. The sentencing court may use the child support schedule and worksheets, but the court is not restricted by limitations established under the child support schedule.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This crime leaves children left behind without the financial support of their parent. This is judicial discretion. The judge does not have to award this as restitution. The intent is not to include payment of higher education.

**Persons Testifying:** PRO: Representative Goodman, prime sponsor.