

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1394
Judiciary

(Delegate McComas, *et al.*)

Criminal Law – Homicide by Motor Vehicle or Vessel – Restitution to Child
(Bentley’s Law)

This bill generally requires a court to order an individual who has been convicted of an offense under Title 2, Subtitle 5 of the Criminal Law Article (homicide by motor vehicle or vessel while impaired or under the influence) that resulted in the death of a parent or guardian of a child to pay restitution to the child. The bill requires the court to consider certain factors in determining the amount of restitution ordered and sets forth specified time periods by which the restitution must be paid. However, if the surviving parent or guardian of a victim’s child brings an action against the individual seeking damages and obtains a favorable judgment (1) the court may not consider restitution, if the action was brought before an order of restitution is entered or (2) the court must offset the restitution by the amount of the favorable judgment, if the action was brought after an order of restitution has been entered.

Fiscal Summary

State Effect: The Judiciary can implement the bill using existing budgeted resources. Otherwise, the bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: In determining the amount of restitution ordered, the court must consider the child's (1) financial needs and resources; (2) standard of living; (3) physical and emotional condition and needs; and (4) physical and legal custody arrangements. If the child of the victim has a surviving parent or guardian, the court must also consider the financial needs and resources of the parent or guardian, including whether the child is in the custody of the Department of Human Services, and reasonable work-related child care expenses.

In general, the full amount of restitution ordered by the court must be divided into periodic payments to be paid to a child of the victim until the child reaches the age of 18 and has graduated from a secondary school or the majority of the class of which the child is a member when the child reaches the age of 18 has graduated from secondary school. However, if an individual ordered to pay restitution is incarcerated and unable to pay, payment must begin within one year after the individual's release from incarceration. If the general period of restitution ends while the individual ordered to pay is incarcerated and the restitution is not paid in full, payment must continue until the restitution is paid in full.

Current Law:

Title 2, Subtitle 5 of the Criminal Law Article

Title 2, Subtitle 5 of the Criminal Law Article prohibits the crime of homicide by a motor vehicle or vessel while impaired or under the influence. Generally, a person may not cause the death of another as a result of the person's negligently driving, operating, or controlling a motor vehicle or vessel while under the influence of or impaired by (1) alcohol; (2) alcohol *per se*; (3) a drug, combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive, operate, or control a motor vehicle or vessel safely; or (4) a controlled dangerous substance. Penalties range from imprisonment for up to 3 or 10 years, and/or a fine of up to \$5,000 or \$10,000, depending on the charge or a prior conviction as further specified in statute.

Restitution – Generally

A court may enter a judgment of restitution ordering a defendant, child respondent, or liable parent to make restitution in addition to any other penalty for the commission of a crime or a delinquent act, as specified. A judgment of restitution is a money judgment in favor of the person, governmental unit, or third-party payor to whom the restitution obligor has been ordered to pay restitution. The judgment of restitution may be enforced by the person, governmental unit, or third-party payor to whom the restitution obligor has been ordered to pay restitution in the same manner as a money judgment in a civil action. Generally, a

person or entity to whom a restitution obligor has been ordered to pay restitution has all the rights and obligations of a money judgment creditor under the Maryland Rules, including the obligation on receiving all amounts due under the judgement to file a statement that the judgment has been satisfied.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Legislative Services

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caw/jkb

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