



2024 South Dakota Legislature
House Bill 1195
ENROLLED

AN ACT

ENTITLED An Act to provide authority for a court to order offenders convicted of vehicular homicide to pay restitution to a victim's children until age eighteen.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 23A-28 be amended with a NEW SECTION:

If a defendant is convicted of vehicular homicide pursuant to § 22-16-41 and the deceased victim of the offense was a parent of a minor child, the sentencing court may order the defendant to pay restitution to each of the victim's children until each child reaches age eighteen, or age nineteen if the child is a full-time student in a secondary school.

The court shall consider all relevant factors in determining a support amount that is reasonable and necessary for the maintenance of each child, including:

- (1) The financial needs and resources of the child;
- (2) The financial needs and resources of the surviving parent, or if no other parent is alive or capable of caring for the child, the guardian of the child, including the state if the state is the guardian;
- (3) The standard of living to which the child is accustomed;
- (4) The physical and emotional condition of the child;
- (5) The child's educational needs;
- (6) The child's physical and legal custody arrangements; and
- (7) The reasonable work-related childcare expenses of the surviving parent or guardian.

Pursuant to § 23A-28-7, a defendant ordered to pay support under this section shall make payments to the clerk of courts as trustee for remittance to the child's surviving parent or guardian. The child's surviving parent or guardian must expend the moneys for the benefit of the child. The clerk shall remit payment to the surviving parent or guardian

within thirty business days of receipt by the clerk. The clerk shall deposit all payments no later than the next business day after receipt.

If a defendant ordered to pay support under this section is incarcerated and unable to pay the required support while incarcerated, the defendant has up to one year after release from incarceration to begin payment, including entering a payment plan to address any arrearage. If the defendant's support payments are set to terminate but the defendant's obligation is not paid in full, the support payments must continue until the entire arrearage is paid.

If a civil action is brought on behalf of a child against the defendant prior to a sentencing court ordering support payments as restitution under this section, and the child obtains a judgment in the civil action, the court may not order support under this section. If the sentencing court orders support under this section and the child later obtains a judgment in a civil action brought on behalf of the child, the court must offset the support order by the amount of the judgment awarded in the civil action pursuant to § 23A-28-9.

An Act to provide authority for a court to order offenders convicted of vehicular homicide to pay restitution to a victim's children until age eighteen.

I certify that the attached Act originated in the:
House as Bill No. 1195

Received at this Executive Office this ____ day of _____, 2024 at _____ M.

Chief Clerk

By _____ for the Governor

Speaker of the House

The attached Act is hereby approved this ____ day of _____, A.D., 2024

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2024
at _____ o'clock __ M.

Secretary of the Senate

Secretary of State

House Bill No. 1195
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State