

SENATE BILL No. 94

By Senator Haley

1-28

1 AN ACT concerning criminal procedure; relating to restitution; requiring a
2 person convicted of an offense that resulted in the incapacitation or
3 death of a victim who is the parent or guardian of a minor child to pay
4 restitution in the form of child support.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) Notwithstanding any provision of law to the contrary, if
8 a defendant is convicted of an offense that resulted in the incapacitation or
9 death of a victim who is the parent or guardian of a minor child, then the
10 court shall order the defendant to pay restitution in the form of reasonable
11 and necessary support of each minor child of the victim until each minor
12 child reaches 18 years of age and has graduated from high school, or the
13 class of which the minor child is a member when the child reaches 18
14 years of age has graduated from high school.

15 (b) When determining the amount of support that is reasonable and
16 necessary for the support of the child, the court shall consider all relevant
17 factors, including, but not limited to:

- 18 (1) The age of the child;
- 19 (2) the financial needs and resources of the child;
- 20 (3) the financial resources and needs of the surviving parent or
21 guardian of the child or the financial resources of the state if the child is in
22 the custody of the secretary for children and families;
- 23 (4) the standard of living to which the child is accustomed;
- 24 (5) the physical and emotional condition of the child and the child's
25 educational needs;
- 26 (6) the child's legal custody and residency; and
- 27 (7) the reasonable child care expenses of the surviving parent or
28 guardian.

29 (c) The court shall order the support payments be paid to the child's
30 parent or guardian. The court's order shall be enforced as a judgment of
31 restitution pursuant to K.S.A. 20-169, and amendments thereto, and K.S.A.
32 21-6604(b)(2), and amendments thereto. Payments shall continue until the
33 entire arrearage is paid in full.

34 (d) (1) If the victim or the victim's family brings a civil action against
35 the defendant prior to the court ordering the defendant to pay the
36 restitution described in this section and the victim or the victim's family

1 obtains a judgment in such action, then the restitution described in this
2 section shall not be ordered.

3 (2) If the court enters an order pursuant to this section and the victim
4 or the victim's family subsequently brings a civil action against the
5 defendant and obtains a judgment in such action, then the order entered
6 pursuant to this section shall be offset by the amount of the judgment in
7 such action.

8 (e) This section shall be a part of and supplemental to the Kansas
9 code of criminal procedure.

10 Sec. 2. This act shall take effect and be in force from and after its
11 publication in the statute book.