

House Bill 1574

By: Representatives Dunahoo of the 31st, Smith of the 18th, Mathis of the 133rd, Petrea of the 166th, Clark of the 100th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,
2 relating to serious traffic offenses, so as to require restitution for certain convictions of
3 homicide by vehicle when operating such vehicle under the influence of alcohol or drugs; to
4 provide for standards for such award amount; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
9 serious traffic offenses, is amended by revising Code Section 40-6-393, relating to homicide
10 by vehicle, as follows:

11 "40-6-393.

12 (a) Any person who, without malice aforethought, causes the death of another person
13 through the violation of subsection (a) of Code Section 40-6-163, Code Sections 40-6-390
14 through 40-6-391, or subsection (a) of Code Section 40-6-395 commits the offense of
15 homicide by vehicle in the first degree and, upon conviction thereof, shall be punished by
16 imprisonment for not less than three years nor more than 15 years.

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17 (b) Any driver of a motor vehicle who, without malice aforethought, causes an accident
18 which causes the death of another person and leaves the scene of the accident in violation
19 of subsection (b) of Code Section 40-6-270 commits the offense of homicide by vehicle in
20 the first degree and, upon conviction thereof, shall be punished by imprisonment for not
21 less than three years nor more than 15 years.

22 (c) Any person who causes the death of another person, without an intention to do so, by
23 violating any provision of this title other than subsection (a) of Code Section 40-6-163,
24 subsection (b) of Code Section 40-6-270, Code Sections 40-6-390 through 40-6-391, or
25 subsection (a) of Code Section 40-6-395 commits the offense of homicide by vehicle in the
26 second degree when such violation is the cause of said death and, upon conviction thereof,
27 shall be punished as provided in Code Section 17-10-3.

28 (d) Any person who, after being declared a habitual violator as determined under Code
29 Section 40-5-58 and while such person's license is in revocation, causes the death of
30 another person, without malice aforethought, by operation of a motor vehicle, commits the
31 offense of homicide by vehicle in the first degree and, upon conviction thereof, shall be
32 punished by imprisonment for not less than five years nor more than 20 years, and
33 adjudication of guilt or imposition of such sentence for a person so convicted may be
34 suspended, probated, deferred, or withheld but only after such person shall have served at
35 least one year in the penitentiary.

36 (e)(1) In addition to the penalties provided for in this Code section, the court shall order
37 any person convicted under subsection (a) or (d) of this Code section for causing the
38 death of another person through a violation of Code Section 40-6-391 to make restitution
39 pursuant to Article 1 of Chapter 14 of Title 17 when the victim was the legal parent or
40 guardian of a minor child. Such restitution shall be in an amount that provides for
41 financial assistance to each of the victim's minor children until the earlier date of when
42 such child reaches the age of 18 or graduates from high school. In making a

43 determination of the appropriate amount of financial assistance for a child, the court shall
44 consider:

45 (A) The financial resources and needs of the child;

46 (B) The financial resources and needs of the surviving legal parent or guardian of the
47 child, which may include the state if the child is in the protective custody of the
48 Division of Family and Children Services of the Department of Human Services;

49 (C) The standard of living to which the child is accustomed;

50 (D) The physical and emotional condition of the child and the child's educational
51 needs;

52 (E) The child's physical and legal custody arrangements; and

53 (F) The reasonable work related child care expenses of the surviving legal parent or
54 guardian.

55 (2) No restitution shall be ordered pursuant to this subsection when a civil judgment for
56 the death has been obtained prior to sentencing. Any restitution amount ordered pursuant
57 to this subsection shall be offset by any civil judgment or any award paid pursuant to
58 Chapter 15 of Title 17 after sentencing which provides for financial assistance for the
59 child."

60 **SECTION 2.**

61 All laws and parts of laws in conflict with this Act are repealed.