

1 AN ACT relating to restitution for driving under the influence.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) (a) Notwithstanding any law to the contrary, if a defendant is convicted of a*
6 *violation of KRS 189A.010 and the violation caused the death of a person*
7 *who was a parent or guardian of a minor child, the sentencing court shall*
8 *order the defendant to pay restitution in the form of child support to each of*
9 *the victim's children or dependents until each child reaches eighteen (18)*
10 *years of age, or under nineteen (19) year of age if the child is still enrolled*
11 *in high school.*

12 *(b) The court shall determine an amount that is reasonable and necessary for*
13 *the maintenance of the victim's child or dependent after considering all*
14 *relevant factors, including the:*

15 *(1) Financial needs and resources of the child or dependent;*

16 *(2) Financial resources and needs of the surviving parent or guardian of*
17 *the child or dependent;*

18 *(3) Standard of living to which the child or dependent is accustomed;*

19 *(4) Physical and emotional condition of the child or dependent;*

20 *(5) Educational needs of the child or dependent;*

21 *(6) Child's or dependent's physical and legal custody arrangements; and*

22 *(7) Reasonable child care expenses of the surviving parent or guardian.*

23 *(2) The court shall order that child support payments be made to the child support*
24 *office as trustee for remittance to the child's surviving parent or guardian. The*
25 *child support office shall remit the payments to the surviving parent or guardian*
26 *within ten (10) days of receipt. The child support office shall deposit all payments*
27 *no later than the next day after receipt.*

- 1 (3) If a defendant who is ordered to pay child support under this section is
2 incarcerated and unable to pay the required restitution, the defendant shall have
3 up to one (1) year after the release from incarceration to begin payment,
4 including entering into a payment plan to address any arrearage.
- 5 (4) If a defendant's child support payments are set to terminate but the defendant's
6 obligation is not paid in full, the child support payments shall continue until the
7 entire arrearage is paid.
- 8 (5) (a) If the surviving parent or guardian of the child or dependent brings a civil
9 action against the defendant before the sentencing court orders child
10 support payments as restitution, and the surviving parent or guardian
11 obtains a judgment in the civil suit, child support shall not be ordered under
12 this section.
- 13 (b) If the court orders the defendant to make child support payments as
14 restitution under this section and the surviving parent or guardian
15 subsequently brings a civil action and obtains a judgment, the child support
16 order shall be offset by the amount of the judgment awarded in the civil
17 action.