

SECOND REGULAR SESSION

# HOUSE BILL NO. 1954

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HENDERSON.

4222H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To amend chapter 454, RSMo, by adding thereto one new section relating to child maintenance orders for certain persons convicted of driving while intoxicated.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 454, RSMo, is amended by adding thereto one new section, to be known as section 454.1050, to read as follows:

**454.1050. 1. This section shall be known and may be cited as "Bentley's Law".**

**2. If a person is convicted of the offense of driving while intoxicated and such offense caused the death of a parent or parents of a child or children, such person shall be ordered by the court to pay child maintenance to the child or children until the child or children reach eighteen years of age; except that, if the child or children reach eighteen years of age and are enrolled in and attending a secondary school program of instruction, maintenance shall continue, if the child or children continue to attend and progress toward completion of such program, until the child or children complete such program or reaches twenty-one years of age, whichever first occurs.**

**3. The court shall order the person convicted of the offense of driving while intoxicated as provided under subsection 2 of this section to pay maintenance in an amount that is reasonable or necessary for the maintenance of the child or children after considering all relevant factors, including:**

**(1) The financial needs and resources of the child or children;**

**(2) The financial resources and needs of the surviving parent or, if no other parent is alive or capable of caring for the child or children, the guardian of the child or children, including the state if the state is the guardian;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

- 18           **(3) The standard of living the child or children would have enjoyed;**  
19           **(4) The physical and emotional condition of the child or children and the child's**  
20 **or children's educational needs;**  
21           **(5) The child's or children's physical and legal custody arrangements; and**  
22           **(6) The reasonable work-related child care expenses of the surviving parent or**  
23 **guardian.**
- 24           **4. (1) The court shall order that child maintenance payments be made to the**  
25 **circuit clerk as trustee for remittance to the surviving parent or guardian entitled to**  
26 **receive the payments. The circuit clerk shall remit such payments to the surviving**  
27 **parent or guardian within three working days of receipt by the circuit clerk. Circuit**  
28 **clerks shall deposit all receipts no later than the next working day after receipt.**
- 29           **(2) As an alternative to subdivision (1) of this subsection, the court may, upon its**  
30 **own motion, order that maintenance payments be made to the family support payment**  
31 **center established under section 454.530 as trustee for remittance to the surviving**  
32 **parent or guardian. However, the court shall not order payments to be made to the**  
33 **payment center if the family support division notifies the court that such payments shall**  
34 **not be made to the center. In such cases, payments shall be made to the clerk as trustee**  
35 **until the division notifies the court that payments shall be directed to the payment**  
36 **center.**
- 37           **5. In addition to any other remedy provided by law for the enforcement of child**  
38 **maintenance, if a maintenance order has been entered, the director of the family**  
39 **support division or the director's designee shall issue an order directing any employer or**  
40 **other payer of the person required to pay child maintenance under this section to**  
41 **withhold and pay over to the family support division or the clerk of the circuit court in**  
42 **the county in which a trusteeship is or will be established moneys due or to become due**  
43 **to the surviving parent or guardian for the child or children in an amount not to exceed**  
44 **federal wage garnishment limitations.**
- 45           **6. If a person ordered to pay child maintenance under this section is**  
46 **incarcerated and unable to pay the required maintenance, the person shall have up to**  
47 **one year after the release from incarceration to begin payment, including any arrearage.**  
48 **If any obligation under this section is to terminate as provided under subsection 2 of this**  
49 **section but the person's obligation is not paid in full, payments shall continue until the**  
50 **entire arrearage is paid.**
- 51           **7. (1) If the surviving parent or guardian of the child or children brings a civil**  
52 **action against the person convicted of driving while intoxicated prior to any child**  
53 **maintenance order under this section and the surviving parent or guardian obtains a**

54 **judgment in his or her favor in the civil suit, no maintenance shall be ordered under this**  
55 **section.**

56 **(2) If the court orders child maintenance under this section but the surviving**  
57 **parent or guardian brings a civil action and obtains a judgment in his or her favor, the**  
58 **child maintenance order shall offset the judgment awarded in the civil action.**

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