

# STATE OF NEW YORK

10290

## IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Meeks) --  
read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to requiring  
intoxicated drivers to pay child support if such intoxicated driving  
results in the death of the parent or guardian of a minor child

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The vehicle and traffic law is amended by adding a new  
2 section 1193-a to read as follows:

3 § 1193-a. Offenses resulting in death of parent or guardian of a minor  
4 child. In addition to the imposition of any fine or period of imprison-  
5 ment set forth in this chapter or under the penal law, where an individ-  
6 ual is convicted of vehicular manslaughter in the second degree under  
7 subdivision one of section 125.12 of the penal law due to the influence  
8 of alcohol, vehicular manslaughter in the first degree under subdivision  
9 one of section 125.13 of the penal law, or aggravated vehicular homicide  
10 under subdivision one of section 125.14 of the penal law, and the  
11 deceased victim of such offense was the parent or guardian of a minor  
12 child, the sentencing court shall order such individual to pay restitu-  
13 tion in the form of child support to each of such victim's children  
14 until each such child reaches the age of eighteen and has graduated from  
15 high school, or the class of which such child is a member when such  
16 child reached the age of eighteen has graduated from high school, in  
17 accordance with the following:

18 1. The court shall determine an amount that is reasonable and neces-  
19 sary for the maintenance of the victim's child after considering all  
20 relevant factors, including:

21 (a) The financial needs of such child;

22 (b) The financial resources and needs of the surviving parent or quar-  
23 dian of such child, including the state if such child is in the custody  
24 of the office of children and family services;

25 (c) The standard of living to which such child is accustomed;

26 (d) The physical and emotional condition of such child and such  
27 child's educational needs;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (e) Such child's physical and legal custody arrangements; and  
2 (f) The reasonable work-related child care expenses of any surviving  
3 parent or guardian of such child.

4 2. The court shall order that child support payments be made to the  
5 clerk of court as trustee for remittance to the child's surviving parent  
6 or guardian. The clerk shall remit the payments to the surviving parent  
7 or guardian within three business days of receipt by the clerk. The  
8 clerk shall deposit all payments no later than the next working day  
9 after receipt.

10 3. If a defendant who is ordered to pay child support under this  
11 section is incarcerated and unable to pay such required child support,  
12 such defendant shall have up to one year after his or her release from  
13 incarceration to begin payment, including entering a payment plan to  
14 address any arrearage. If a defendant's child support payments under  
15 this section are set to terminate but such defendant's obligation is not  
16 paid in full, such child support payments shall continue until the  
17 entire arrearage is paid.

18 4. (1) If the surviving parent or guardian of the child brings a civil  
19 action against the defendant prior to the sentencing court ordering  
20 child support payments under this section and such surviving parent or  
21 guardian obtains a judgment in such civil suit, no such child support  
22 shall be ordered under this section.

23 (2) If the court orders the defendant to make child support payments  
24 as restitution under this section and the surviving parent or guardian  
25 subsequently brings a civil action and obtains a judgment, such child  
26 support order shall be offset by the amount of the judgment awarded in  
27 such civil action.

28 § 2. This act shall take effect immediately and shall apply to  
29 offenses committed on or after such date.