

STATE OF NEW YORK

1776--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 20, 2023

Introduced by M. of A. MEEKS, HEVESI, ANDERSON, FLOOD, SHIMSKY, DURSO, THIELE, BUTTENSCHON, DAVILA -- read once and referred to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "NYPD high-
2 way officer Anastasios Tsakos act".

3 § 2. The vehicle and traffic law is amended by adding a new section
4 1193-a to read as follows:

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

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

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

4 (a) The financial needs of such child;

5 (b) The financial resources and needs of the surviving parent or guar-
6 dian of such child, including the state if such child is in the custody
7 of the office of children and family services;

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

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

11 (e) Such child's physical and legal custody arrangements; and

12 (f) The reasonable work-related child care expenses of any surviving
13 parent or guardian of such child.

14 2. The court shall order that child support payments be made to the
15 clerk of court as trustee for remittance to the child's surviving parent
16 or guardian. The clerk shall remit the payments to the surviving parent
17 or guardian within three business days of receipt by the clerk. The
18 clerk shall deposit all payments no later than the next working day
19 after receipt.

20 3. If a defendant who is ordered to pay child support under this
21 section is incarcerated and unable to pay such required child support,
22 such defendant shall have up to one year after such defendant's release
23 from incarceration to begin payment, including entering a payment plan
24 to address any arrearage. If a defendant's child support payments under
25 this section are set to terminate but such defendant's obligation is not
26 paid in full, such child support payments shall continue until the
27 entire arrearage is paid.

28 4. (a) If the surviving parent or guardian of the child brings a civil
29 action against the defendant prior to the sentencing court ordering
30 child support payments under this section and such surviving parent or
31 guardian obtains a judgment in such civil suit, no such child support
32 shall be ordered under this section.

33 (b) If the court orders the defendant to make child support payments
34 as restitution under this section and the surviving parent or guardian
35 subsequently brings a civil action and obtains a judgment, such child
36 support order shall be offset by the amount of the judgment awarded in
37 such civil action.

38 § 3. This act shall take effect immediately and shall apply to
39 offenses committed on or after such date.