

# Hall of the House of Representatives

94th General Assembly - Regular Session, 2023

## Amendment Form

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### Subtitle of House Bill No. 1131

TO PROVIDE FOR CHILD SUPPORT FOR A HOMICIDE VICTIM'S SURVIVING DEPENDENT CHILD WHEN THE DEFENDANT WAS DRIVING OR BOATING WHILE INTOXICATED AT THE TIME OF THE HOMICIDE; AND TO ESTABLISH BENTLEY'S LAW.

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### Amendment No. 1 to House Bill 1131

Amend House Bill No. 1131 as originally introduced:

Delete Representatives Achor, Brooks, M. Brown, Joey Carr, Duffield, Eaves, McCollum, B. McKenzie, J. Moore, Pilkington, Rose, Underwood, Vaught as cosponsors of the bill

AND

Add Representatives Rye, Achor, Brooks, M. Brown, Joey Carr, Duffield, Eaves, McCollum, B. McKenzie, Milligan, J. Moore, Pilkington, Rose, Underwood, Vaught as cosponsors of the bill

AND

Page 1, line 10, delete "CHILD SUPPORT" and substitute "RESTITUTION"

AND

Delete the subtitle in its entirety, and substitute the following:

"TO PROVIDE FOR RESTITUTION FOR A  
HOMICIDE VICTIM'S SURVIVING DEPENDENT  
CHILD WHEN THE DEFENDANT WAS DRIVING OR  
BOATING WHILE INTOXICATED AT THE TIME OF  
THE HOMICIDE; AND TO ESTABLISH BENTLEY'S  
LAW."

AND

Page 1, line 33, delete "Child support as restitution" and substitute "Restitution"



AND

Page 2, line 18, delete "child support as"

AND

Page 2, line 24, delete "child support" and substitute "restitution"

AND

Page 2, line 26, delete "child support" and substitute "restitution"

AND

Page 2, line 27, delete "child support" and substitute "restitution"

AND

Page 2, line 29, delete "child support" and substitute "restitution"

AND

Page 2, line 30, delete "Child support" and substitute "Restitution"

AND

Page 2, delete lines 33 through 36, and substitute the following:

"(d)(1) A court that issues an order for restitution under this section shall refer to the most recent revision of the Family Support Chart under Supreme Court Administrative Order No. 10 in determining the amount of restitution for the benefit of the dependent child after considering all relevant factors, including without limitation:

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

(B) The financial resources and needs of the surviving parent or guardian of the dependent child, including the state if the dependent child is in the custody of the Department of Human Services;

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

(D) The physical and emotional condition of the dependent child;

(E) The dependent child's educational needs;

(F) The dependent child's physical and legal custody arrangements; and

(G) The reasonable work-related child care expenses of the surviving parent or guardian of the dependent child.

(2) There is a rebuttable presumption for an order of restitution under this section that the amount contained in the most recent revision of the Family Support Chart under Supreme Court Administrative Order No. 10 is the correct amount of restitution to be ordered under this section.

(3) The presumption in subdivision (d)(2) of this section is rebutted only upon a written finding or a specific finding on the record that the application of the most recent revision of the Family Support Chart under Supreme Court Administrative Order No. 10 would be unjust or inappropriate, as determined by the factors listed in subdivision (d)(1) of this section and other factors deemed appropriate for consideration by the court."

AND

Page 3, delete lines 1 through 12

AND

Page 3, line 13, delete "child support" and substitute "restitution"

AND

Page 3, delete line 14, and substitute the following:  
"section shall order that restitution payments be made to the county official, agency, or department responsible for collecting the restitution under § 16-13-709"

AND

Page 3, line 15, delete "clerk"

AND

Page 3, line 16, delete "circuit court clerk" and substitute "county official, agency, or department responsible for collecting the restitution under § 16-13-709"

AND

Page 3, line 17, delete "child support" and substitute "restitution"

AND

Page 3, line 19, delete "child support" and substitute "restitution"

AND

Page 3, line 21, delete "circuit court clerk" and substitute "county official, agency, or department responsible for collecting the restitution under § 16-13-709"

AND

Page 3, delete lines 22 and 23, and substitute the following:  
"(f)(1) An order for restitution under this section is subject to modification upon a showing of a material change in circumstances until the

restitution is paid in full.

(2) A change in the gross income of the defendant of at least twenty percent (20%) constitutes a material change of circumstances sufficient to petition the court for modification of the restitution order.

(3) The following persons may petition the court for modification of a restitution order under this section:

(A) The defendant;

(B) The surviving parent or guardian of a dependent child;

(C) The dependent child or the dependent child's

representative; or

(D) The prosecuting attorney."

AND

Page 3, delete line 24, and substitute the following:

"(g)(1) If a defendant who is ordered to pay restitution under this"

AND

Page 3, line 25, delete "child support" and substitute "restitution"

AND

Page 3, line 28, delete "child support" and substitute "restitution"

AND

Page 3, line 30, delete "child support" and substitute "restitution"

AND

Page 3, delete line 31, and substitute the following:

"arrearage is paid.

(3) A defendant who is ordered to pay restitution under this section is not subject to criminal prosecution due to his or her arrearage on the restitution payments unless the court makes a written finding or a specific finding on the record that the defendant has the ability to pay the restitution owed."

AND

Page 3, line 32, delete "(g)(1)" and substitute "(h)(1)"

AND

Page 3, line 33, delete "child support" and substitute "restitution"

AND

Page 3, line 34, delete "as restitution"

AND

Page 3, line 35, delete "child" and substitute "restitution"

AND

Page 3, line 36, delete "support"

AND

Page 4, line 1, delete "child support" and substitute "restitution"

AND

Page 4, line 2, delete "as restitution"

AND

Page 4, line 4, delete "child support" and substitute "restitution"

AND

Page 4, delete line 5, and substitute the following:

"by the amount of the judgment awarded in the civil action.

(i) Unless otherwise provided in or in conflict with this section, §§ 5-4-205 and 5-4-206 apply to restitution ordered under this section."

The Amendment was read \_\_\_\_\_

By: Representative Hawk

LHR/LHR - 01-20-2023 15:12:13

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Chief Clerk