

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1131

5 By: Representatives Hawk, Achor, Brooks, M. Brown, Joey Carr, Duffield, Eaves, McCollum, B.  
6 McKenzie, J. Moore, Pilkington, Rose, Underwood, Vaught  
7 By: Senator K. Hammer  
8

## For An Act To Be Entitled

10 AN ACT TO PROVIDE FOR CHILD SUPPORT FOR A HOMICIDE  
11 VICTIM'S SURVIVING DEPENDENT CHILD WHEN THE DEFENDANT  
12 WAS DRIVING OR BOATING WHILE INTOXICATED AT THE TIME  
13 OF THE HOMICIDE; TO ESTABLISH BENTLEY'S LAW; AND FOR  
14 OTHER PURPOSES.  
15

## Subtitle

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18 TO PROVIDE FOR CHILD SUPPORT FOR A  
19 HOMICIDE VICTIM'S SURVIVING DEPENDENT  
20 CHILD WHEN THE DEFENDANT WAS DRIVING OR  
21 BOATING WHILE INTOXICATED AT THE TIME OF  
22 THE HOMICIDE; AND TO ESTABLISH BENTLEY'S  
23 LAW.  
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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28 SECTION 1. DO NOT CODIFY. Title.

29 This act shall be known and may be cited as "Bentley's Law".  
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31 SECTION 2. Arkansas Code Title 5, Chapter 4, Subchapter 2, is amended  
32 to add an additional section to read as follows:

33 5-4-208. Child support as restitution for surviving dependent child of  
34 victim of certain homicide offenses.

35 (a) As used in this section:

36 (1)(A) "Dependent child" means the surviving child of a homicide



1 victim if the surviving child is:

2 (i) Less than eighteen (18) years of age; or

3 (ii) Eighteen (18) years of age or older, attending  
 4 high school, and has not reached the end of the school year after the  
 5 surviving child becomes nineteen (19) years of age.

6 (B) "Dependent child" does not include a surviving child  
 7 of a homicide victim if the surviving child is:

8 (i) Emancipated by a court of competent  
 9 jurisdiction;

10 (ii) Married; or

11 (iii) Adopted by another person pursuant to a final  
 12 decree of adoption or an interlocutory decree of adoption that has become  
 13 final under the Revised Uniform Adoption Act, § 9-9-201 et seq.; and

14 (2) "Homicide victim" means a victim of a homicide offense under  
 15 § 5-10-101 et seq. in which the actor was driving or boating while  
 16 intoxicated, § 5-65-103, at the time the homicidal act occurred.

17 (b)(1) A defendant convicted of a homicide offense under § 5-10-101 et  
 18 seq. shall be ordered to pay child support as restitution for the benefit of  
 19 a dependent child of the homicide victim if at the trial for the homicide  
 20 offense the defendant is shown beyond a reasonable doubt to have been driving  
 21 or boating while intoxicated, § 5-65-103, at the time the homicidal act  
 22 occurred.

23 (2) Before a court issues an order requiring a defendant to pay  
 24 child support under this section, the state shall:

25 (A) Allege facts in the information or indictment  
 26 supporting the issuance of an order for child support under this section; and

27 (B) Specify that an order for child support under this  
 28 section is being sought and specify, as appropriate, each dependent child for  
 29 whom child support is being sought.

30 (c) Child support ordered under this section shall automatically  
 31 terminate by operation of law when the dependent child is no longer a  
 32 dependent child or dies.

33 (d) The court that issues an order for child support under this  
 34 section shall determine an amount for child support that is reasonable and  
 35 necessary for the support of the dependent child after considering all  
 36 relevant factors, including without limitation:

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

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

5           (3) The standard of living to which the dependent child is  
6 accustomed;

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

8           (5) The dependent child's educational needs;

9           (6) The dependent child's physical and legal custody  
10 arrangements; and

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

13           (e)(1) The court that issues an order for child support under this  
14 section shall order that child support payments be made to the circuit court  
15 clerk for remittance to the dependent child's surviving parent or guardian.

16           (2) The circuit court clerk shall:

17                   (A) Deposit all child support payments under this section  
18 no later than the next working day after receipt; and

19                   (B) Remit the child support payments under this section to  
20 the surviving parent or guardian within three (3) working days of receipt by  
21 the circuit court clerk.

22           (3) The circuit court clerk shall deposit all payments no later  
23 than the next working day after receipt.

24           (f)(1) If a defendant who is ordered to pay child support under this  
25 section is incarcerated and unable to pay the required child support, the  
26 defendant shall have up to one (1) year after the release from incarceration  
27 to begin payment, including entering a payment plan to address any arrearage.

28           (2) If a defendant's child support payments under this section  
29 are set to terminate but the defendant's obligation is not paid in full, the  
30 child support payments under this section shall continue until the entire  
31 arrearage is paid.

32           (g)(1) If a surviving parent or guardian of a dependent child brings a  
33 civil action against the defendant before the court orders child support  
34 payments as restitution under this section and the surviving parent or  
35 guardian obtains a judgment for monetary damages in the civil action, child  
36 support shall not be ordered under this section.

1           (2) If the court orders the defendant to make child support  
2 payments as restitution under this section and the surviving parent or  
3 guardian subsequently brings a civil action and obtains a judgment for  
4 monetary damages in the civil action, the child support order shall be offset  
5 by the amount of the judgment awarded in the civil action.

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