

1 HB114
2 216043-2
3 By Representatives Robertson, Wood (D), Moore (P), Kitchens,
4 Pettus, Stadthagen, Marques, Isbell, Lipscomb, Kiel, Sorrells,
5 Lee and Oliver
6 RFD: Judiciary
7 First Read: 13-JAN-22

SYNOPSIS: Existing law provides for criminal and civil penalties for the offense of driving while under the influence of alcohol or a controlled substance.

This bill would require an individual who is convicted of driving while under the influence of alcohol or a controlled substance to pay child support for a child of a victim of the offense if the offense leads to the death of a parent or guardian of the child.

A BILL
TO BE ENTITLED
AN ACT

Relating to child support; to require an individual convicted of driving while under the influence to pay child support in certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) This act shall be known and may be cited as the DUI and Child Compensation and Recovery Act.

1 (b) In addition to the penalties prescribed for
2 driving while under the influence of alcohol or a controlled
3 substance under Section 32-5A-191, Code of Alabama 1975, and
4 in addition to any restitution required pursuant to Article 4A
5 of Chapter 18 of Title 15, Code of Alabama 1975, if an
6 individual is convicted pursuant to Section 32-5A-191, Code of
7 Alabama 1975, and the offense leading to the conviction causes
8 the death of a child's parent or guardian, that individual
9 shall be ordered to pay child support for the child pursuant
10 to Chapter 3 of Title 30, Code of Alabama 1975, until the
11 child reaches 19 years of age.

12 (c) Child support ordered pursuant to subsection (b)
13 may be calculated according to the child support guidelines
14 established by Rule 32 of the Alabama Rules of Judicial
15 Administration based upon the circumstances during the time
16 period for which support is ordered, or may otherwise be
17 ordered by the court in an amount determined by the court
18 based on the following factors:

19 (1) The financial needs and resources of the child.

20 (2) The financial needs and resources of the
21 surviving parent or, if no other parent is alive or capable of
22 caring for the child, the guardian of the child, including the
23 State of Alabama if the state or a department or agency
24 thereof is the guardian.

25 (3) The standard of living the child would have
26 enjoyed.

1 (4) The physical and emotional condition of the
2 child and the child's educational needs.

3 (5) The child's physical and legal custody
4 arrangements.

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

7 (d) Child support ordered pursuant to this section
8 shall accrue from the date of the death of the child's parent
9 or guardian.

10 (e) Any individual against whom an order to pay
11 child support pursuant to this section is entered shall be
12 subject to an income withholding order as set forth in Title
13 30, Chapter 3, Article 3, Code of Alabama 1975.

14 (f) If an individual ordered to pay child support
15 pursuant to this section is incarcerated and unable to pay the
16 ordered support, the individual shall have up to one year
17 after release from incarceration to begin payment, including
18 any arrearage. If any obligation ordered pursuant to this
19 section is to terminate due to the age of the child, but the
20 support obligation is not paid in full, payments shall
21 continue until the entire arrearage is paid.

22 Section 2. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.