



SPONSOR: Rep. Shupe & Sen. Richardson  
Rep. Smyk; Sens. Bonini, Hocker, Lawson, Pettyjohn

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 482

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO RESTITUTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend Subchapter I, Chapter 41, Title 11 of the Delaware Code by making deletions as shown by  
2       strike through and insertions as shown by underline as follows:

3           § 4107. Restitution for death of child's parent due to driving under the influence.

4           (a) For purposes of this section:

5               (1) "Convicted of the death of a child's parent due to driving under the influence" means a conviction for one  
6       of the following:

7               a. A violation of § 630(a)(2) or § 630A of this title that causes the death of a child's parent.

8               b. While in the course of driving or operating a motor vehicle under the influence of alcohol or drugs or  
9       with a prohibited alcohol or drug content, as defined by § 4177 of Title 21, a violation of §§ 632, 635, or 636 of  
10      this title causing the death of a child's parent.

11           (2) "Parent" means a natural parent, an adoptive parent, or a person legally charged with the care or custody  
12      of a child.

13           (3) "Person" means an individual; corporation; statutory trust; business trust; estate; trust; partnership;  
14      association; joint venture; government; governmental subdivision, agency, or instrumentality; or any other legal or  
15      commercial entity.

16           (b) Except as provided under paragraph (e)(2) of this section, if a defendant is convicted of the death of a child's  
17      parent due to driving under the influence, the Superior Court shall order the defendant to pay restitution to the child until  
18      the later of the following:

19               (1) The child reaches 18 years of age.

20               (2) The high school class of which the child is a member when the child reaches 18 years of age graduates  
21      from high school.

(c) The Superior Court shall determine the amount of restitution due based on the amount that is reasonable and necessary for the support of the child after considering all of the relevant factors, including all of the following:

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

(2) The financial resources and needs of the surviving parent of the child.

(3) The standard of living to which the child is accustomed.

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

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

(6) The reasonable work-related expenses of the surviving parent.

(d) The Superior Court shall order that the restitution due under subsection (c) of this section be made to the Prothonotary as trustee for remittance to the child's surviving parent. The Prothonotary shall remit the payments to the surviving parent within 3 business days of receipt by the Prothonotary.

(e)(1) If a defendant who is ordered to pay restitution under this section is incarcerated and unable to pay the restitution, the defendant has up to 1 year after the defendant's release from incarceration to begin payment, including entering a payment plan to address any arrearage.

(2) If a defendant's restitution payments are set to terminate but the defendant's obligation is not paid the restitution ordered in full, the restitution payments are to continue until the defendant pays the arrearage.

(f)(1) If the surviving parent of the child brings a civil action against the defendant before the Superior Court enters an order under this section and the surviving parent obtains a judgment in the civil action, the Superior Court may not order restitution under this section.

(2) If the Superior Court orders the defendant to make restitution under this section and the surviving parent subsequently brings a civil action and obtains a judgment, the Superior Court shall amend the order to offset the restitution due by the amount of the judgment awarded in the civil action.

(g) The Superior Court may order a defendant to execute an assignment under § 4104(c) of this title.

Section 2. This Act is to be known and may be cited as "Bentley's Law".

#### SYNOPSIS

This Act requires an individual who kills a child's parent while driving under the influence to pay restitution to the child for the reasonable and necessary support of the child.

This Act is to be known and may be cited as "Bentley's Law", in honor of Bentley Williams, the son of Cordell Williams and Lacey Newton, who were killed by an individual driving under the influence in Missouri in April 2021.