

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 1135  
AN ACT

To amend chapter 454, RSMo, by adding thereto one new section relating to child maintenance orders for certain persons convicted of driving while intoxicated.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 454, RSMo, is amended by adding thereto  
2 one new section, to be known as section 454.1050, to read as  
3 follows:

454.1050. 1. This section shall be known and may be  
2 cited as "Bentley and Mason's Law".

3 2. If a person is convicted of the offense of driving  
4 while intoxicated, such offense caused the death of a parent  
5 or parents of a child or children, and a surviving parent or  
6 guardian files a petition to receive child maintenance from  
7 the person convicted of such offense, such person shall be  
8 ordered by the court to pay child maintenance to the child  
9 or children until the child or children:

10 (1) Die;

11 (2) Marry;

12 (3) Enter active military duty;

13 (4) Reach eighteen years of age unless the provisions  
14 of subsection 3 of this section apply; or

15 (5) Reach twenty-one years of age unless the  
16 provisions of the maintenance order specifically extend  
17 beyond the child's or children's twenty-first birthdays for  
18 reasons provided under subdivision (1) of subsection 3 of  
19 this section.

20           3. (1) If the child or children are physically or  
21 mentally incapacitated from supporting themselves and  
22 insolvent and unmarried, the court may extend the  
23 maintenance obligation past the child's or children's  
24 eighteenth birthday.

25           (2) (a) If the child or children reach eighteen years  
26 of age and are enrolled in and attending a secondary school  
27 program of instruction, maintenance shall continue, if the  
28 child or children continue to attend and progress toward  
29 completion of such program, until the child or children  
30 complete such program or reach twenty-one years of age,  
31 whichever first occurs.

32           (b) If the child or children are enrolled in an  
33 institution of vocational or higher education no later than  
34 October first following graduation from a secondary school  
35 or completion of a graduation equivalence degree program and  
36 so long as the child or children enroll for and complete at  
37 least twelve hours of credit each semester, not including  
38 the summer semester, at an institution of vocational or  
39 higher education and achieve grades sufficient to reenroll  
40 at such institution, maintenance shall continue until the  
41 child or children complete their education or until the  
42 child or children reach twenty-one years of age, whichever  
43 first occurs. To remain eligible for such continued  
44 maintenance, at the beginning of each semester the child or  
45 children shall submit to the court a transcript or similar  
46 official document provided by the institution of vocational  
47 or higher education that includes the courses the child or  
48 children are enrolled in and have completed for each term,  
49 the grades and credits received for each such course, and an  
50 official document from the institution listing the courses  
51 that the child or children are enrolled in for the upcoming  
52 term and the number of credits for each such course. When

53 enrolled in at least twelve credit hours, if the child or  
54 children receive failing grades in half or more of the  
55 child's or children's courseload in any one semester,  
56 payment of maintenance for the child or children receiving  
57 the failing grades may be terminated and shall not be  
58 eligible for reinstatement. Upon request for notification  
59 of the child's or children's grades by the court, the child  
60 or children shall produce the required documents to the  
61 court within thirty days of receipt of grades from the  
62 education institution. If the child or children fail to  
63 produce the required documents, payment of maintenance may  
64 terminate without the accrual of any maintenance arrearage  
65 and shall not be eligible for reinstatement. If the  
66 circumstances of the child or children manifestly dictate,  
67 the court may waive the October first deadline for  
68 enrollment required by this subdivision. As used in this  
69 subdivision, "institution of vocational education" means any  
70 postsecondary training or schooling for which the child is  
71 assessed a fee and attends classes regularly. "Higher  
72 education" means any community college, college, or  
73 university at which the child attends classes regularly. A  
74 child or children who have been diagnosed with a  
75 developmental disability, as defined under section 630.005,  
76 or whose physical disability or diagnosed health problem  
77 limits the child's or children's ability to carry the number  
78 of credit hours prescribed in this subdivision, shall remain  
79 eligible for maintenance so long as such child or children  
80 are enrolled in and attending an institution of vocational  
81 or higher education and the child or children continue to  
82 meet the other requirements of this subdivision. A child or  
83 children who are employed at least fifteen hours per week  
84 during the semester may take as few as nine credit hours per

85 semester and remain eligible for maintenance so long as all  
86 other requirements of this subdivision are complied with.

87 4. The court shall order the person convicted of the  
88 offense of driving while intoxicated as provided under  
89 subsection 2 of this section to pay maintenance in an amount  
90 that is reasonable or necessary for the maintenance of the  
91 child or children after considering all relevant factors,  
92 including:

93 (1) The financial needs and resources of the child or  
94 children;

95 (2) The financial resources and needs of the surviving  
96 parent or, if no other parent is alive or capable of caring  
97 for the child or children, the guardian of the child or  
98 children, including the state if the state is the guardian;

99 (3) The standard of living the child or children would  
100 have enjoyed;

101 (4) The physical and emotional condition of the child  
102 or children and the child's or children's educational needs;

103 (5) The child's or children's physical and legal  
104 custody arrangements; and

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

107 5. In addition to the relevant factors listed under  
108 subsection 4 of this section, the court shall consider the  
109 guidelines set out under subsection 8 of section 452.340 and  
110 Missouri supreme court civil procedure rule form 14 in  
111 determining the amount reasonable or necessary for the  
112 maintenance of the child or children.

113 6. (1) The court shall order that child maintenance  
114 payments be made to the circuit clerk as trustee for  
115 remittance to the surviving parent or guardian entitled to  
116 receive the payments. The circuit clerk shall remit such  
117 payments to the surviving parent or guardian within three

118 working days of receipt by the circuit clerk. Circuit  
119 clerks shall deposit all receipts no later than the next  
120 working day after receipt.

121 (2) As an alternative to subdivision (1) of this  
122 subsection, the court may, upon its own motion, order that  
123 maintenance payments be made to the family support payment  
124 center established under section 454.530 as trustee for  
125 remittance to the surviving parent or guardian. However,  
126 the court shall not order payments to be made to the payment  
127 center if the family support division notifies the court  
128 that such payments shall not be made to the center. In such  
129 cases, payments shall be made to the clerk as trustee until  
130 the division notifies the court that payments shall be  
131 directed to the payment center.

132 7. In addition to any other remedy provided by law for  
133 the enforcement of child maintenance, if a maintenance order  
134 has been entered, the director of the family support  
135 division or the director's designee shall issue an order  
136 directing any employer or other payer of the person required  
137 to pay child maintenance under this section to withhold and  
138 pay over to the family support division or the clerk of the  
139 circuit court in the county in which a trusteeship is or  
140 will be established moneys due or to become due to the  
141 surviving parent or guardian for the child or children in an  
142 amount not to exceed federal wage garnishment limitations.

143 8. If a person ordered to pay child maintenance under  
144 this section is incarcerated and unable to pay the required  
145 maintenance, the person shall have up to one year after the  
146 release from incarceration to begin payment, including any  
147 arrearage. If any obligation under this section is to  
148 terminate as provided under subsection 2 of this section but  
149 the person's obligation is not paid in full, payments shall  
150 continue until the entire arrearage is paid.

151           9. (1) If the surviving parent or guardian of the  
152 child or children brings a civil action against the person  
153 convicted of driving while intoxicated prior to any child  
154 maintenance order under this section and the surviving  
155 parent or guardian obtains a judgment in his or her favor in  
156 the civil suit, no maintenance shall be ordered under this  
157 section.

158           (2) If the court orders child maintenance under this  
159 section but the surviving parent or guardian brings a civil  
160 action and obtains a judgment in his or her favor, the child  
161 maintenance order shall offset the judgment awarded in the  
162 civil action.

163           10. The provisions of any order respecting maintenance  
164 under this section may be modified only upon a showing of  
165 changed circumstances so substantial and continuing as to  
166 make the terms unreasonable.