

House Engrossed

restitution; child survivors; DUI.

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2044

AN ACT

AMENDING TITLE 13, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-826; RELATING TO RESTITUTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 8, Arizona Revised Statutes, is
3 amended by adding section 13-826, to read:

4 13-826. Restitution for minor child of victim of certain
5 homicides

6 A. IF A DEFENDANT IS CONVICTED OF A VIOLATION OF SECTION 13-1102 OR
7 SECTION 13-1103, SUBSECTION A AND THE OFFENSE INVOLVED THE DEFENDANT
8 OPERATING A MOTOR VEHICLE WHILE INTOXICATED, AND BECAUSE OF THAT
9 INTOXICATION, THE DEFENDANT CAUSED THE DEATH OF ANOTHER BY ACCIDENT OR
10 MISTAKE, THE COURT SHALL ORDER THE DEFENDANT TO PAY RESTITUTION FOR THE
11 SUPPORT OF A MINOR CHILD WHOSE PARENT OR GUARDIAN WAS THE VICTIM OF THE
12 OFFENSE. THE COURT SHALL ORDER THE SUPPORT TO BE PAID MONTHLY UNTIL THE
13 MINOR CHILD REACHES EIGHTEEN YEARS OF AGE OR GRADUATES FROM HIGH SCHOOL,
14 WHICHEVER IS LATER.

15 B. THE COURT SHALL DETERMINE THE MANNER IN WHICH THE RESTITUTION IS
16 TO BE PAID. IN DETERMINING AN AMOUNT OF RESTITUTION THAT IS REASONABLE
17 AND NECESSARY TO SUPPORT THE MINOR CHILD, THE COURT SHALL CONSIDER ALL
18 RELEVANT FACTORS, INCLUDING ALL OF THE FOLLOWING:

- 19 1. THE FINANCIAL NEEDS AND RESOURCES OF THE MINOR CHILD.
- 20 2. THE FINANCIAL NEEDS AND RESOURCES OF THE SURVIVING PARENT OR
21 GUARDIAN, IF ANY, OR OF ANOTHER CURRENT GUARDIAN OF THE MINOR CHILD.
- 22 3. THE STANDARD OF LIVING TO WHICH THE MINOR CHILD IS ACCUSTOMED.
- 23 4. THE PHYSICAL AND EMOTIONAL CONDITION OF THE MINOR CHILD AND THE
24 MINOR CHILD'S EDUCATIONAL NEEDS.
- 25 5. THE MINOR CHILD'S PHYSICAL AND LEGAL CUSTODY ARRANGEMENTS.
- 26 6. THE REASONABLE WORK-RELATED CHILD CARE EXPENSES OF THE SURVIVING
27 PARENT OR GUARDIAN OR OTHER CURRENT GUARDIAN, IF APPLICABLE.
- 28 7. THE FINANCIAL RESOURCES OF THE DEFENDANT.

29 C. IF THE DEPARTMENT OF CHILD SAFETY IS THE LEGAL GUARDIAN OF THE
30 CHILD, THE COURT SHALL APPOINT A TRUSTEE TO ENSURE THAT THE RESTITUTION IS
31 PAID DIRECTLY TO THE CHILD. THE DEPARTMENT OF CHILD SAFETY MAY NOT USE
32 THE RESTITUTION UNDER THIS SECTION TO PAY OR TO REIMBURSE THE DEPARTMENT
33 OF CHILD SAFETY OR THIS STATE FOR ANY OF THE COSTS OF THE CHILD'S CARE.

34 D. IF A DEFENDANT IS ORDERED TO PAY RESTITUTION UNDER THIS SECTION
35 AND IS UNABLE TO MAKE THE REQUIRED RESTITUTION PAYMENTS BECAUSE THE
36 DEFENDANT IS CONFINED IN A CORRECTIONAL FACILITY, THE DEFENDANT SHALL
37 BEGIN PAYMENTS NOT LATER THAN THE FIRST ANNIVERSARY OF THE DATE OF THE
38 DEFENDANT'S RELEASE FROM CONFINEMENT. THE DEFENDANT MAY ENTER INTO A
39 PAYMENT PLAN TO ADDRESS ANY ARREARAGE THAT EXISTS ON THE DATE OF THE
40 DEFENDANT'S RELEASE FROM CONFINEMENT. THE DEFENDANT MUST PAY ALL
41 ARREARAGES REGARDLESS OF WHETHER THE RESTITUTION PAYMENTS WERE SCHEDULED
42 TO TERMINATE WHILE THE DEFENDANT WAS CONFINED IN THE CORRECTIONAL
43 FACILITY.