

Amendment No. 2 to SB2103

Bell
Signature of Sponsor

AMEND Senate Bill No. 2103

House Bill No. 1834*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act is known and may be cited as "Ethan's, Hailey's, and Bentley's Law."

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 13, Part 2, is amended by adding the following as a new section:

(a) Notwithstanding any law to the contrary, if a defendant is convicted of a violation of § 39-13-213(a)(2) or § 39-13-218 and the deceased victim of the offense was the parent of a minor child, then the sentencing court shall order the defendant to pay restitution in the form of child maintenance to each of the victim's children until each child reaches eighteen (18) years of age and has graduated from high school, or the class of which the child is a member when the child reached eighteen (18) years of age has graduated from high school.

(b) The court shall determine an amount that is reasonable and necessary for the maintenance of the victim's child after considering all relevant factors, including:

- (1) The financial needs and resources of the child;
- (2) The financial resources and needs of the surviving parent or guardian of the child, including the state if the child is in the custody of the department of children's services;
- (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; and

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

(c) The court shall order that child maintenance payments be made to the clerk of court as trustee for remittance to the child's surviving parent or guardian. The clerk shall remit the payments to the surviving parent or guardian within ten (10) working days of receipt by the clerk. The clerk shall deposit all payments no later than the next working day after receipt.

(d) If a defendant who is ordered to pay child maintenance under this section is incarcerated and unable to pay the required maintenance, then the defendant must have up to one (1) year after the release from incarceration to begin payment, including entering a payment plan to address any arrearage. If a defendant's child maintenance payments are set to terminate but the defendant's obligation is not paid in full, then the child maintenance payments shall continue until the entire arrearage is paid.

(e)

(1) If the surviving parent or guardian of the child brings a civil action against the defendant prior to the sentencing court ordering child maintenance payments as restitution and the surviving parent or guardian obtains a judgment in the civil suit, then no maintenance shall be ordered under this section.

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

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it, and applies to offenses committed on or after that date.