

By: Representatives Ladner, Felsher

To: Judiciary A

HOUSE BILL NO. 554

1 AN ACT TO CREATE A NEW STATUTE TO BE KNOWN AS "BENTLEY'S  
 2 LAW"; TO AUTHORIZE A SURVIVING PARENT OR A GUARDIAN OF A CHILD  
 3 HAVING A PARENT WHOSE DEATH WAS CAUSED BY A MOTOR VEHICLE INCIDENT  
 4 IN WHICH A PERSON IS CONVICTED OF AGGRAVATED DUI TO PETITION THE  
 5 CHANCERY COURT FOR AN ORDER TO RECEIVE CHILD MAINTENANCE FROM THE  
 6 OFFENDER; TO REQUIRE THE MAINTENANCE TO CONTINUE UNTIL THE CHILD  
 7 REACHES 21 YEARS OF AGE UNLESS OTHER CONDITIONS ARE PRESENT; TO  
 8 REQUIRE AN INCARCERATED PERSON ORDERED TO PAY CHILD MAINTENANCE TO  
 9 BEGIN MAKING PAYMENTS WITHIN ONE YEAR AFTER BEING RELEASED AND TO  
 10 PAY ALL ARREARAGES NOTWITHSTANDING THE AGE OF THE RECIPIENT; TO  
 11 PROHIBIT THE ISSUANCE OF A MAINTENANCE ORDER IF THE SURVIVING  
 12 PARENT HAS OBTAINED A JUDGMENT IN A CIVIL SUIT BEFORE SEEKING THE  
 13 MAINTENANCE ORDER; AND FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** (1) This section shall be known and may be cited  
 16 as "Bentley's Law."

17 (2) If a person is convicted under Section 63-11-30 of the  
 18 offense of aggravated DUI and the offense caused the death of a  
 19 parent or parents of a child or children, and a surviving parent  
 20 or guardian files a petition to receive child maintenance from the  
 21 person convicted of the offense in the chancery court in the  
 22 county in which the child or children reside, the person must be



23 ordered by the court to pay child maintenance to each child until  
24 the child:

25 (a) Dies;

26 (b) Marries;

27 (c) Enters active military duty;

28 (d) Reaches eighteen (18) years of age, unless  
29 subsection (3) of this section applies; or

30 (e) Reaches twenty-one (21) years of age unless the  
31 maintenance order specifically extends beyond the child's  
32 twenty-first birthday for reasons provided under paragraph (a) of  
33 subsection (3) of this section.

34 (3) (a) If the child is physically or mentally  
35 incapacitated from supporting himself or herself and insolvent and  
36 unmarried, the court may extend the maintenance obligation past  
37 the child's eighteenth birthday.

38 (b) (i) If the child reaches eighteen (18) years of age  
39 and is attending high school, maintenance must continue, if the  
40 child continues to attend and progress toward completion of high  
41 school, until the child graduates from high school or reaches  
42 twenty-one (21) years of age, whichever occurs first.

43 (ii) As used in this subparagraph, "institution of  
44 higher learning" means an institution offering postsecondary  
45 training or schooling for which the child is assessed a fee and  
46 attends classes regularly and includes a public or private  
47 community or junior college, college, state institution of higher



48 learning or school or college required to be registered under the  
49 Mississippi Proprietary School and College Registration Law. If  
50 the child is enrolled in an institution of higher learning before  
51 October 1 next succeeding high school graduation or the earning of  
52 a High School Equivalency Diploma, so long as the child completes  
53 the equivalency of at least twelve (12) hours of credit each  
54 semester, not including the summer semester, and achieves grades  
55 sufficient to reenroll at the institution, maintenance must  
56 continue until the child completes his or her education or until  
57 the child reaches twenty-one (21) years of age, whichever occurs  
58 first. To remain eligible for this continued maintenance, at the  
59 beginning of each semester, the child must submit to the court a  
60 transcript or similar official document provided by the  
61 institution which includes the courses the child is enrolled in  
62 and has completed for each term, the grades and credits received  
63 for each course, and an official document from the institution  
64 listing the courses that the child is enrolled in for the upcoming  
65 term and the number of credits for those courses. When taking at  
66 least twelve (12) credit hours, if the child receives failing  
67 grades in one-half (1/2) or more of the child's course load in any  
68 one (1) semester, payment of maintenance for the child may be  
69 terminated and is not eligible for reinstatement. Upon request  
70 for notification of the child's grades by the court, the child  
71 must produce the required documents to the court within thirty  
72 (30) days of receipt of grades from the institution. If the child



73 fails to produce the required documents, payment of maintenance  
74 may terminate without the accrual of any maintenance arrearage and  
75 is not eligible for reinstatement. If the circumstances of the  
76 child manifestly dictate, the court may waive the October first  
77 deadline for enrollment required by this subparagraph. A child  
78 diagnosed with a developmental disability, or whose physical  
79 disability or diagnosed health problem limits the child's ability  
80 to carry the number of credit hours required under this  
81 subparagraph, must remain eligible for maintenance so long as the  
82 child is enrolled in and attending an institution of higher  
83 learning and the child continues to meet the other requirements of  
84 this subparagraph. A child who is employed at least fifteen (15)  
85 hours per week during the semester may take as few as the  
86 equivalency of nine (9) credit hours per semester and remain  
87 eligible for maintenance so long as all other requirements of this  
88 subparagraph are complied with.

89 (4) Whenever the court orders an offender to pay child  
90 maintenance under subsection (2), the court shall determine the  
91 amount that is reasonable or necessary for the maintenance of the  
92 child or children after considering all relevant factors,  
93 including:

94 (a) The financial needs and resources of the child or  
95 children;

96 (b) The financial resources and needs of the surviving  
97 parent or, if no other parent is alive or capable of caring for



98 the child or children, the guardian of the child or children,  
99 including the state if the state is the guardian;

100 (c) The standard of living the child or children would  
101 have enjoyed;

102 (d) The physical and emotional condition of the child  
103 or children and each child's educational needs;

104 (e) Each child's physical and legal custody  
105 arrangements; and

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

108 (5) In addition to the relevant factors listed under  
109 subsection (4), the court shall consider the legal guidelines  
110 established for determining the amount reasonable or necessary for  
111 the maintenance of a child or children in a child support  
112 proceeding.

113 (6) The court shall order that child maintenance payments be  
114 made to the office of the chancery clerk as trustee for remittance  
115 to the surviving parent or guardian entitled to receive the  
116 payments. The chancery clerk shall remit the payments to the  
117 surviving parent or guardian within three (3) working days of  
118 receipt by the office of the chancery clerk. The chancery clerk  
119 must deposit all receipts no later than the next working day after  
120 receipt.

121 (7) In addition to any other remedy provided by law for the  
122 enforcement of child maintenance, if a maintenance order has been



123 entered, the court may issue an order directing any employer or  
124 other payer of the person required to pay child maintenance under  
125 this section to withhold and pay over to the clerk of the court an  
126 amount not to exceed federal wage garnishment limitations.

127 (8) If a person ordered to pay child maintenance under this  
128 section is incarcerated and unable to pay the required  
129 maintenance, the person has up to one (1) year after the release  
130 from incarceration to begin payment, including any arrearage. If  
131 any obligation under this section is to terminate under subsection  
132 (2) but the person's obligation is not paid in full yet, payments  
133 must continue until the entire arrearage is paid.

134 (9) (a) If the surviving parent or guardian of the child or  
135 children brings a civil action against the person convicted of  
136 aggravated DUI before any child maintenance order is issued under  
137 this section and the surviving parent or guardian obtains a  
138 judgment in his or her favor in the civil suit, no maintenance may  
139 be ordered under this section.

140 (b) If the court orders child maintenance under this  
141 section but the surviving parent or guardian subsequently brings a  
142 civil action and obtains a judgment in his or her favor, the child  
143 maintenance order must offset the judgment awarded in the civil  
144 action.

145 (10) The provisions of any order respecting maintenance  
146 under this section may be modified only upon a showing of changed



147 circumstances so substantial and continuing as to make the terms  
148 of the child maintenance order unreasonable.

149           **SECTION 2.** This act shall take effect and be in force from  
150 and after July 1, 2023.

