

By: Senator(s) Hill

To: Judiciary, Division B;  
Judiciary, Division A

SENATE BILL NO. 2132

1 AN ACT TO CREATE A NEW SECTION WITHIN TITLE 63, CHAPTER 11,  
 2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A DEFENDANT CONVICTED OF  
 3 AGGRAVATED DUI WHERE THE DECEASED VICTIM OF THE OFFENSE WAS THE  
 4 PARENT OF A MINOR CHILD SHALL PAY RESTITUTION IN THE FORM OF CHILD  
 5 SUPPORT; TO PROVIDE THAT THE COURT SHALL DETERMINE AN AMOUNT THAT  
 6 IS REASONABLE AFTER CONSIDERED CERTAIN FACTORS; TO PROVIDE FOR THE  
 7 DISBURSEMENT OF THE SUPPORT TO THE CHILD'S PARENT OR GUARDIAN; TO  
 8 PROVIDE FOR THE DEFENDANT'S INABILITY TO PAY DURING INCARCERATION;  
 9 TO PROVIDE THAT CHILD SUPPORT PAYMENTS SHALL CONTINUE UNTIL PAID  
 10 IN FULL WITHOUT REGARD TO THE AGE OF THE CHILD; TO PROVIDE THAT A  
 11 CHILD SUPPORT ORDER UNDER THIS SECTION SHALL BE OFFSET BY A  
 12 SUBSEQUENT CIVIL JUDGMENT ENTERED AGAINST THE DEFENDANT FOR THE  
 13 BENEFIT OF THE MINOR CHILD; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** The following shall be codified as a new section  
 16 within Title 63, Chapter 11, Mississippi Code of 1972:

17 (1) If a defendant is convicted of a violation of Section  
 18 63-11-30(5) and the deceased victim of the offense was the parent  
 19 or guardian of a minor child, then the sentencing court shall  
 20 order the defendant to pay restitution in the form of child  
 21 support to each of the victim's children until each child reaches  
 22 twenty-one (21) years of age.



23           (2) The court shall determine an amount that is reasonable  
24 and necessary for the support of the victim's child after  
25 considering the following:

26                   (a) The financial needs and resources of the child;

27                   (b) The financial resources and needs of the surviving  
28 parent or guardian of the child, including the state if the child  
29 is in the custody of the Department of Child Protection Services;

30                   (c) The standard of living to which the child is  
31 accustomed;

32                   (d) The physical and emotional condition of the child  
33 and the child's educational needs;

34                   (e) The child's physical and legal custody  
35 arrangements;

36                   (f) The reasonable work-related child care expenses of  
37 the surviving parent or guardian;

38                   (g) The wage-earning capacity of the child's deceased  
39 parent or guardian;

40                   (h) The amount of any judgment in a civil suit against  
41 the defendant for the benefit of the child if a judgment is  
42 entered before the child support is ordered under this section;  
43 and

44                   (i) Any other relevant factor.

45           (3) The court shall order that child support payments be  
46 made to the clerk of court as trustee for remittance to the  
47 child's surviving parent or guardian. The clerk shall remit the



48 payments to the surviving parent or guardian within three (3)  
49 working days of receipt by the clerk. The clerk shall deposit all  
50 payments no later than the next working day after receipt.

51 (4) If a defendant who is ordered to pay child support under  
52 this section is incarcerated and unable to pay the required  
53 support, the defendant may have up to one (1) year after the  
54 release from incarceration to begin payment, including entering a  
55 payment plan to address any arrearage.

56 (5) The child support payments due under this section shall  
57 continue until the entire arrearage is paid in full without regard  
58 to the age of the child.

59 (6) If the sentencing court orders the defendant to make  
60 child support payments as restitution under this section and the  
61 surviving parent or guardian subsequently brings a civil action  
62 and obtains a judgment, the sentencing court shall offset the  
63 child support order by the amount of the judgment awarded in the  
64 civil action upon a motion of the defendant.

65 **SECTION 2.** This act shall take effect and be in force from  
66 and after its passage.

