

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CRIMINAL LAWS REGARDING CERTAIN PENALTIES  
5 FOR CERTAIN TRAFFIC FATALITIES; PROVIDING WHEN AN IMPAIRED DRIVER IS CONVICTED OF  
6 KILLING THE PARENT OR GUARDIAN OF A MINOR CHILD THE DRIVER MUST BE ORDERED TO PAY  
7 CHILD SUPPORT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **NEW SECTION. Section 1. Child support -- deceased victim parent or guardian of minor child.**

12 (1) If a defendant is convicted of a violation of 45-5-104 or 45-5-106, and the deceased victim of the offense  
13 was the parent or guardian of a minor child, then the sentencing court shall order the defendant to pay  
14 restitution in the form of child support to each of the victim's children until each child reaches 18 years of age  
15 and has graduated from high school, or the class of which the child is a member when the child reached 18  
16 years of age has graduated from high school.

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

- 19 (a) financial needs and resources of the child;
- 20 (b) financial resources and needs of the surviving parent or guardian of the child, including the  
21 state if the child is in the custody of the department of public health and human services;
- 22 (c) standard of living to which the child is accustomed;
- 23 (d) physical and emotional condition of the child and the child's educational needs;
- 24 (e) child's physical and legal parenting arrangements; and
- 25 (f) reasonable work-related child-care expenses of the surviving parent or guardian.

26 (3) The court shall order that child support payments be made to the clerk of district  
27 court as trustee for remittance to the child's surviving parent or guardian. The clerk shall remit the payments to  
28 the surviving parent or guardian within 10 working days of receipt by the clerk. The clerk shall deposit all

1 payments no later than the next working day after receipt.

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

7 (5) If the court orders the defendant to make child support payments under this section, and the  
8 surviving parent or guardian brings a civil action and obtains a judgment, then the child support order must be  
9 offset by the amount of the judgment awarded in the civil action.

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11 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an  
12 integral part of Title 46, chapter 18, part 2, and the provisions of Title 46, chapter 18, part 2, apply to [section 1].

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14 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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