



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4147

by Rep. Curtis J. Tarver, II

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501
750 ILCS 5/520 new

from Ch. 95 1/2, par. 11-501

Amends the Illinois Marriage and Dissolution of Marriage Act. Provides that if a defendant is found guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof where the violation has resulted in the death of another, the court shall order the defendant to pay an amount reasonable and necessary for support of any child of the victim. Sets forth factors the court shall consider when determining a reasonable and necessary amount of child support. Allows the Office of the Attorney General to enforce a child support order issued under the provisions. Makes a corresponding change in the Illinois Vehicle Code.

LRB103 34198 LNS 64021 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by
5 changing Section 11-501 as follows:

6 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

7 Sec. 11-501. Driving while under the influence of alcohol,
8 other drug or drugs, intoxicating compound or compounds or any
9 combination thereof.

10 (a) A person shall not drive or be in actual physical
11 control of any vehicle within this State while:

12 (1) the alcohol concentration in the person's blood,
13 other bodily substance, or breath is 0.08 or more based on
14 the definition of blood and breath units in Section
15 11-501.2;

16 (2) under the influence of alcohol;

17 (3) under the influence of any intoxicating compound
18 or combination of intoxicating compounds to a degree that
19 renders the person incapable of driving safely;

20 (4) under the influence of any other drug or
21 combination of drugs to a degree that renders the person
22 incapable of safely driving;

23 (5) under the combined influence of alcohol, other

1 drug or drugs, or intoxicating compound or compounds to a
2 degree that renders the person incapable of safely
3 driving;

4 (6) there is any amount of a drug, substance, or
5 compound in the person's breath, blood, other bodily
6 substance, or urine resulting from the unlawful use or
7 consumption of a controlled substance listed in the
8 Illinois Controlled Substances Act, an intoxicating
9 compound listed in the Use of Intoxicating Compounds Act,
10 or methamphetamine as listed in the Methamphetamine
11 Control and Community Protection Act; or

12 (7) the person has, within 2 hours of driving or being
13 in actual physical control of a vehicle, a
14 tetrahydrocannabinol concentration in the person's whole
15 blood or other bodily substance as defined in paragraph 6
16 of subsection (a) of Section 11-501.2 of this Code.
17 Subject to all other requirements and provisions under
18 this Section, this paragraph (7) does not apply to the
19 lawful consumption of cannabis by a qualifying patient
20 licensed under the Compassionate Use of Medical Cannabis
21 Program Act who is in possession of a valid registry card
22 issued under that Act, unless that person is impaired by
23 the use of cannabis.

24 (b) The fact that any person charged with violating this
25 Section is or has been legally entitled to use alcohol,
26 cannabis under the Compassionate Use of Medical Cannabis

1 Program Act, other drug or drugs, or intoxicating compound or
2 compounds, or any combination thereof, shall not constitute a
3 defense against any charge of violating this Section.

4 (c) Penalties.

5 (1) Except as otherwise provided in this Section, any
6 person convicted of violating subsection (a) of this
7 Section is guilty of a Class A misdemeanor.

8 (2) A person who violates subsection (a) or a similar
9 provision a second time shall be sentenced to a mandatory
10 minimum term of either 5 days of imprisonment or 240 hours
11 of community service in addition to any other criminal or
12 administrative sanction.

13 (3) A person who violates subsection (a) is subject to
14 6 months of imprisonment, an additional mandatory minimum
15 fine of \$1,000, and 25 days of community service in a
16 program benefiting children if the person was transporting
17 a person under the age of 16 at the time of the violation.

18 (4) A person who violates subsection (a) a first time,
19 if the alcohol concentration in his or her blood, breath,
20 other bodily substance, or urine was 0.16 or more based on
21 the definition of blood, breath, other bodily substance,
22 or urine units in Section 11-501.2, shall be subject, in
23 addition to any other penalty that may be imposed, to a
24 mandatory minimum of 100 hours of community service and a
25 mandatory minimum fine of \$500.

26 (5) A person who violates subsection (a) a second

1 time, if at the time of the second violation the alcohol
2 concentration in his or her blood, breath, other bodily
3 substance, or urine was 0.16 or more based on the
4 definition of blood, breath, other bodily substance, or
5 urine units in Section 11-501.2, shall be subject, in
6 addition to any other penalty that may be imposed, to a
7 mandatory minimum of 2 days of imprisonment and a
8 mandatory minimum fine of \$1,250.

9 (d) Aggravated driving under the influence of alcohol,
10 other drug or drugs, or intoxicating compound or compounds, or
11 any combination thereof.

12 (1) Every person convicted of committing a violation
13 of this Section shall be guilty of aggravated driving
14 under the influence of alcohol, other drug or drugs, or
15 intoxicating compound or compounds, or any combination
16 thereof if:

17 (A) the person committed a violation of subsection
18 (a) or a similar provision for the third or subsequent
19 time;

20 (B) the person committed a violation of subsection
21 (a) while driving a school bus with one or more
22 passengers on board;

23 (C) the person in committing a violation of
24 subsection (a) was involved in a motor vehicle crash
25 that resulted in great bodily harm or permanent
26 disability or disfigurement to another, when the

1 violation was a proximate cause of the injuries;

2 (D) the person committed a violation of subsection
3 (a) and has been previously convicted of violating
4 Section 9-3 of the Criminal Code of 1961 or the
5 Criminal Code of 2012 or a similar provision of a law
6 of another state relating to reckless homicide in
7 which the person was determined to have been under the
8 influence of alcohol, other drug or drugs, or
9 intoxicating compound or compounds as an element of
10 the offense or the person has previously been
11 convicted under subparagraph (C) or subparagraph (F)
12 of this paragraph (1);

13 (E) the person, in committing a violation of
14 subsection (a) while driving at any speed in a school
15 speed zone at a time when a speed limit of 20 miles per
16 hour was in effect under subsection (a) of Section
17 11-605 of this Code, was involved in a motor vehicle
18 crash that resulted in bodily harm, other than great
19 bodily harm or permanent disability or disfigurement,
20 to another person, when the violation of subsection
21 (a) was a proximate cause of the bodily harm;

22 (F) the person, in committing a violation of
23 subsection (a), was involved in a motor vehicle crash
24 or snowmobile, all-terrain vehicle, or watercraft
25 accident that resulted in the death of another person,
26 when the violation of subsection (a) was a proximate

1 cause of the death;

2 (G) the person committed a violation of subsection
3 (a) during a period in which the defendant's driving
4 privileges are revoked or suspended, where the
5 revocation or suspension was for a violation of
6 subsection (a) or a similar provision, Section
7 11-501.1, paragraph (b) of Section 11-401, or for
8 reckless homicide as defined in Section 9-3 of the
9 Criminal Code of 1961 or the Criminal Code of 2012;

10 (H) the person committed the violation while he or
11 she did not possess a driver's license or permit or a
12 restricted driving permit or a judicial driving permit
13 or a monitoring device driving permit;

14 (I) the person committed the violation while he or
15 she knew or should have known that the vehicle he or
16 she was driving was not covered by a liability
17 insurance policy;

18 (J) the person in committing a violation of
19 subsection (a) was involved in a motor vehicle crash
20 that resulted in bodily harm, but not great bodily
21 harm, to the child under the age of 16 being
22 transported by the person, if the violation was the
23 proximate cause of the injury;

24 (K) the person in committing a second violation of
25 subsection (a) or a similar provision was transporting
26 a person under the age of 16; or

1 (L) the person committed a violation of subsection
2 (a) of this Section while transporting one or more
3 passengers in a vehicle for-hire.

4 (2) (A) Except as provided otherwise, a person
5 convicted of aggravated driving under the influence of
6 alcohol, other drug or drugs, or intoxicating compound or
7 compounds, or any combination thereof is guilty of a Class
8 4 felony.

9 (B) A third violation of this Section or a similar
10 provision is a Class 2 felony. If at the time of the third
11 violation the alcohol concentration in his or her blood,
12 breath, other bodily substance, or urine was 0.16 or more
13 based on the definition of blood, breath, other bodily
14 substance, or urine units in Section 11-501.2, a mandatory
15 minimum of 90 days of imprisonment and a mandatory minimum
16 fine of \$2,500 shall be imposed in addition to any other
17 criminal or administrative sanction. If at the time of the
18 third violation, the defendant was transporting a person
19 under the age of 16, a mandatory fine of \$25,000 and 25
20 days of community service in a program benefiting children
21 shall be imposed in addition to any other criminal or
22 administrative sanction.

23 (C) A fourth violation of this Section or a similar
24 provision is a Class 2 felony, for which a sentence of
25 probation or conditional discharge may not be imposed. If
26 at the time of the violation, the alcohol concentration in

1 the defendant's blood, breath, other bodily substance, or
2 urine was 0.16 or more based on the definition of blood,
3 breath, other bodily substance, or urine units in Section
4 11-501.2, a mandatory minimum fine of \$5,000 shall be
5 imposed in addition to any other criminal or
6 administrative sanction. If at the time of the fourth
7 violation, the defendant was transporting a person under
8 the age of 16 a mandatory fine of \$25,000 and 25 days of
9 community service in a program benefiting children shall
10 be imposed in addition to any other criminal or
11 administrative sanction.

12 (D) A fifth violation of this Section or a similar
13 provision is a Class 1 felony, for which a sentence of
14 probation or conditional discharge may not be imposed. If
15 at the time of the violation, the alcohol concentration in
16 the defendant's blood, breath, other bodily substance, or
17 urine was 0.16 or more based on the definition of blood,
18 breath, other bodily substance, or urine units in Section
19 11-501.2, a mandatory minimum fine of \$5,000 shall be
20 imposed in addition to any other criminal or
21 administrative sanction. If at the time of the fifth
22 violation, the defendant was transporting a person under
23 the age of 16, a mandatory fine of \$25,000, and 25 days of
24 community service in a program benefiting children shall
25 be imposed in addition to any other criminal or
26 administrative sanction.

1 (E) A sixth or subsequent violation of this Section or
2 similar provision is a Class X felony. If at the time of
3 the violation, the alcohol concentration in the
4 defendant's blood, breath, other bodily substance, or
5 urine was 0.16 or more based on the definition of blood,
6 breath, other bodily substance, or urine units in Section
7 11-501.2, a mandatory minimum fine of \$5,000 shall be
8 imposed in addition to any other criminal or
9 administrative sanction. If at the time of the violation,
10 the defendant was transporting a person under the age of
11 16, a mandatory fine of \$25,000 and 25 days of community
12 service in a program benefiting children shall be imposed
13 in addition to any other criminal or administrative
14 sanction.

15 (F) For a violation of subparagraph (C) of paragraph
16 (1) of this subsection (d), the defendant, if sentenced to
17 a term of imprisonment, shall be sentenced to not less
18 than one year nor more than 12 years.

19 (G) A violation of subparagraph (F) of paragraph (1)
20 of this subsection (d) is a Class 2 felony, for which the
21 defendant, unless the court determines that extraordinary
22 circumstances exist and require probation, shall be
23 sentenced to: (i) a term of imprisonment of not less than 3
24 years and not more than 14 years if the violation resulted
25 in the death of one person; or (ii) a term of imprisonment
26 of not less than 6 years and not more than 28 years if the

1 violation resulted in the deaths of 2 or more persons. A
2 defendant who violates subparagraph (F) of paragraph (1)
3 of this subsection (d) shall also be responsible to make
4 child support payments under Section 520 of the Illinois
5 Marriage and Dissolution of Marriage Act for any child of
6 any person whose death was a result of the violation.

7 (H) For a violation of subparagraph (J) of paragraph
8 (1) of this subsection (d), a mandatory fine of \$2,500,
9 and 25 days of community service in a program benefiting
10 children shall be imposed in addition to any other
11 criminal or administrative sanction.

12 (I) A violation of subparagraph (K) of paragraph (1)
13 of this subsection (d), is a Class 2 felony and a mandatory
14 fine of \$2,500, and 25 days of community service in a
15 program benefiting children shall be imposed in addition
16 to any other criminal or administrative sanction. If the
17 child being transported suffered bodily harm, but not
18 great bodily harm, in a motor vehicle crash, and the
19 violation was the proximate cause of that injury, a
20 mandatory fine of \$5,000 and 25 days of community service
21 in a program benefiting children shall be imposed in
22 addition to any other criminal or administrative sanction.

23 (J) A violation of subparagraph (D) of paragraph (1)
24 of this subsection (d) is a Class 3 felony, for which a
25 sentence of probation or conditional discharge may not be
26 imposed.

1 (3) Any person sentenced under this subsection (d) who
2 receives a term of probation or conditional discharge must
3 serve a minimum term of either 480 hours of community
4 service or 10 days of imprisonment as a condition of the
5 probation or conditional discharge in addition to any
6 other criminal or administrative sanction.

7 (e) Any reference to a prior violation of subsection (a)
8 or a similar provision includes any violation of a provision
9 of a local ordinance or a provision of a law of another state
10 or an offense committed on a military installation that is
11 similar to a violation of subsection (a) of this Section.

12 (f) The imposition of a mandatory term of imprisonment or
13 assignment of community service for a violation of this
14 Section shall not be suspended or reduced by the court.

15 (g) Any penalty imposed for driving with a license that
16 has been revoked for a previous violation of subsection (a) of
17 this Section shall be in addition to the penalty imposed for
18 any subsequent violation of subsection (a).

19 (h) For any prosecution under this Section, a certified
20 copy of the driving abstract of the defendant shall be
21 admitted as proof of any prior conviction.

22 (Source: P.A. 101-363, eff. 8-9-19; 102-982, eff. 7-1-23.)

23 Section 10. The Illinois Marriage and Dissolution of
24 Marriage Act is amended by adding Section 520 as follows:

1 (750 ILCS 5/520 new)

2 Sec. 520. Mandatory child support for victim of aggravated
3 driving under the influence.

4 (a) If a defendant is found guilty of aggravated driving
5 under the influence of alcohol, other drug or drugs, or
6 intoxicating compound or compounds, or any combination thereof
7 under subparagraph (F) of paragraph (1) of subsection (d) of
8 Section 11-501 of the Illinois Vehicle Code where the
9 violation has resulted in the death of another, the court
10 shall order the defendant to pay an amount reasonable and
11 necessary for support of any child of the victim.

12 (b) The court shall determine an amount to be paid monthly
13 for the child support of a child until the child reaches the
14 age of 18 or has graduated from high school, whichever is
15 later. The court shall determine an amount for child support
16 that is reasonable and necessary to support the child,
17 considering all of the relevant factors, including:

18 (1) the financial needs and resources of the child;

19 (2) the financial needs and resources of the surviving
20 parent or guardian or other current guardian of the child
21 or, if applicable, the financial resources of the State if
22 the Department of Children and Family Services has been
23 appointed as temporary or permanent guardian of the child;

24 (3) the standard of living to which the child is
25 accustomed;

26 (4) the physical and emotional condition of the child

1 and the child's educational needs;

2 (5) the child's physical and legal custody
3 arrangements;

4 (6) the reasonable work-related child care expenses of
5 the surviving parent or guardian or other current
6 guardian, if applicable; and

7 (7) the financial resources of the defendant.

8 (c) The child support order must require that payments be:

9 (1) made directly to the person or the agency that
10 will accept and forward payments to the surviving parent
11 or guardian or other current guardian;

12 (2) made directly to the surviving parent or guardian
13 or other current guardian; or

14 (3) delivered to a community supervision and
15 corrections department for transfer to the surviving
16 parent or guardian or other current guardian.

17 (d) If a defendant ordered to pay child support under this
18 Section is unable to make the required payments because the
19 defendant is confined or imprisoned in a correctional
20 facility, the defendant shall begin payments not later than
21 the first anniversary of the date of the defendant's release
22 from the facility. The defendant may enter into a payment plan
23 to address any arrearage that exists on the date of the
24 defendant's release. The defendant must pay all arrearages
25 regardless of whether the payments were scheduled to terminate
26 while the defendant was confined or imprisoned in the

1 correctional facility.

2 (e) A child support order issued under this Section may be
3 enforced by the Office of the Attorney General, or by a person
4 or a parent or guardian of the person named in the order to
5 receive the child support, in the same manner as a judgment in
6 a civil action.

7 (f) As used in this Section, "child" includes any child
8 under the age of 18 and any child who is still attending high
9 school.