

SB3095



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3095

Introduced 1/11/2022, by Sen. John Connor

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501

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

Amends the Illinois Vehicle Code. Provides that if a person is convicted of aggravated driving under the influence on the basis of being involved in an accident that proximately caused the death of a parent or parents of a child or children, the person shall be ordered by the court to pay child support to the child or children. Includes provisions governing the amount and duration of the support obligation, enforcement, and collection.

LRB102 23175 HEP 32337 b

A BILL FOR

1 AN ACT concerning transportation.

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
25 accident that resulted in great bodily harm or
26 permanent disability or disfigurement to another, when

1 the 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 accident that resulted in bodily harm, other than
19 great bodily harm or permanent disability or
20 disfigurement, to another person, when the violation
21 of subsection (a) was a proximate cause of the bodily
22 harm;

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

1 when the violation of subsection (a) was a proximate
2 cause of the death;

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

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

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

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

25 (K) the person in committing a second violation of
26 subsection (a) or a similar provision was transporting

1 a person under the age of 16; or

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

5 (2) (A) Except as provided otherwise, a person
6 convicted of aggravated driving under the influence of
7 alcohol, other drug or drugs, or intoxicating compound or
8 compounds, or any combination thereof is guilty of a Class
9 4 felony.

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

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

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

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

1 administrative sanction.

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

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

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

1 of not less than 6 years and not more than 28 years if the
2 violation resulted in the deaths of 2 or more persons.

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

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

19 (J) A violation of subparagraph (D) of paragraph (1)
20 of this subsection (d) is a Class 3 felony, for which a
21 sentence of probation or conditional discharge may not be
22 imposed.

23 (3) Any person sentenced under this subsection (d) who
24 receives a term of probation or conditional discharge must
25 serve a minimum term of either 480 hours of community
26 service or 10 days of imprisonment as a condition of the

1 probation or conditional discharge in addition to any
2 other criminal or administrative sanction.

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

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

11 (g) Any penalty imposed for driving with a license that
12 has been revoked for a previous violation of subsection (a) of
13 this Section shall be in addition to the penalty imposed for
14 any subsequent violation of subsection (a).

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

18 (i) (1) If a person is convicted under subparagraph (F) of
19 paragraph (1) of subsection (d) of this Section, and the
20 violation caused the death of a parent or parents of a child or
21 children, the person shall be ordered by the court to pay child
22 support to the child or children until the child or children
23 reach 18 years of age; except that, if the child or children
24 reach 18 years of age and are enrolled in and attending a
25 secondary school program of instruction, support shall
26 continue, if the child or children continue to attend and

1 progress toward completion of such program, until the child or
2 children complete such program or reach 21 years of age,
3 whichever occurs first.

4 (2) The court shall order the person convicted under
5 subparagraph (F) of paragraph (1) of subsection (d) of this
6 Section of causing the death of a parent or parents of a child
7 or children to pay support in an amount determined after
8 considering all relevant factors under Section 505 of the
9 Illinois Marriage and Dissolution of Marriage Act, and also:

10 (A) the financial needs and resources of the child or
11 children;

12 (B) the financial resources and needs of the surviving
13 parent or, if no other parent is alive or capable of caring
14 for the child or children, the guardian of the child or
15 children, including the State if the State is the
16 guardian;

17 (C) the standard of living the child or children would
18 have enjoyed;

19 (D) the physical and emotional condition of the child
20 or children and the child's or children's educational
21 needs;

22 (E) the child's or children's physical and legal
23 custody arrangements; and

24 (F) the reasonable work-related child care expenses of
25 the surviving parent or guardian.

26 (3) The court shall order that child support payments be

1 made to the circuit clerk as trustee for remittance to the
2 surviving parent or guardian entitled to receive the payments.
3 The circuit clerk shall remit such payments to the surviving
4 parent or guardian within 3 working days of receipt by the
5 circuit clerk. Circuit clerks shall deposit all receipts no
6 later than the next working day after receipt.

7 (4) As an alternative to paragraph (3) of this subsection,
8 the court may, upon its own motion, order that support
9 payments be made to the State Disbursement Unit established
10 under Section 507.1 of the Illinois Marriage and Dissolution
11 of Marriage Act as trustee for remittance to the surviving
12 parent or guardian. However, the court shall not order
13 payments to be made to the payment center if the family support
14 division notifies the court that such payments shall not be
15 made to the center. In such cases, payments shall be made to
16 the clerk trustee until the division notifies the court that
17 payments shall be directed to the disbursement unit.

18 (5) A support order under this subsection is subject to
19 the Income Withholding for Support Act.

20 (6) If a person ordered to pay child support under this
21 subsection is incarcerated and unable to pay the required
22 support, the person shall have up to one year after the release
23 from incarceration to begin payment, including any arrearage.
24 If any obligation under this subsection is to terminate as
25 provided under paragraph (1) but the person's obligation is
26 not paid in full, payments shall continue until the entire

1 arrears is paid.

2 (7) If the surviving parent or guardian of the child or
3 children brings a civil action against the person convicted of
4 driving while intoxicated prior to any child support order
5 under this subsection and the surviving parent or guardian
6 obtains a judgment in the surviving parent's or guardian's
7 favor in the civil suit, no support shall be ordered under this
8 subsection.

9 (8) If the court orders child support under this
10 subsection and the surviving parent or guardian brings a civil
11 action subsequently and obtains a judgment in the surviving
12 parent's or guardian's favor, the child support order shall
13 offset the judgment awarded in the civil action.

14 (Source: P.A. 101-363, eff. 8-9-19.)