

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Committee Substitute for Senate Bill No. 189, Page 92, Section 443.702, Line 35,  
2 by inserting after said section and line the following:  
3

4 "454.1050. 1. This section shall be known and may be cited as "Bentley's Law".

5 2. If a person is convicted of the offense of driving while intoxicated, such offense caused  
6 the death of a parent or parents of a child or children, and a surviving parent or guardian files a  
7 petition to receive child maintenance from the person convicted of such offense, such person shall  
8 be ordered by the court to pay child maintenance to the child or children until the child or children:

9 (1) Die;

10 (2) Marry;

11 (3) Enter active military duty;

12 (4) Reach eighteen years of age unless the provisions of subsection 3 of this section apply;

13 or

14 (5) Reach twenty-one years of age unless the provisions of the maintenance order  
15 specifically extend beyond the child's or children's twenty-first birthdays for reasons provided under  
16 subdivision (1) of subsection 3 of this section.

17 3. (1) If the child or children are physically or mentally incapacitated from supporting  
18 themselves and insolvent and unmarried, the court may extend the maintenance obligation past the  
19 child's or children's eighteenth birthday.

20 (2) (a) If the child or children reach eighteen years of age and are enrolled in and attending  
21 a secondary school program of instruction, maintenance shall continue, if the child or children  
22 continue to attend and progress toward completion of such program, until the child or children  
23 complete such program or reach twenty-one years of age, whichever first occurs.

24 (b) If the child or children are enrolled in an institution of vocational or higher education no  
25 later than October first following graduation from a secondary school or completion of a graduation  
26 equivalence degree program and so long as the child or children enroll for and complete at least  
27 twelve hours of credit each semester, not including the summer semester, at an institution of  
28 vocational or higher education and achieve grades sufficient to reenroll at such institution,  
29 maintenance shall continue until the child or children complete their education or until the child or  
30 children reach twenty-one years of age, whichever first occurs. To remain eligible for such

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1 continued maintenance, at the beginning of each semester the child or children shall submit to the  
2 court a transcript or similar official document provided by the institution of vocational or higher  
3 education that includes the courses the child or children are enrolled in and have completed for each  
4 term, the grades and credits received for each such course, and an official document from the  
5 institution listing the courses that the child or children are enrolled in for the upcoming term and the  
6 number of credits for each such course. When enrolled in at least twelve credit hours, if the child or  
7 children receive failing grades in half or more of the child's or children's courseload in any one  
8 semester, payment of maintenance for the child or children receiving the failing grades may be  
9 terminated and shall not be eligible for reinstatement. Upon request for notification of the child's or  
10 children's grades by the court, the child or children shall produce the required documents to the  
11 court within thirty days of receipt of grades from the education institution. If the child or children  
12 fail to produce the required documents, payment of maintenance may terminate without the accrual  
13 of any maintenance arrearage and shall not be eligible for reinstatement. If the circumstances of the  
14 child or children manifestly dictate, the court may waive the October first deadline for enrollment  
15 required by this subdivision. As used in this subdivision, "institution of vocational education"  
16 means any postsecondary training or schooling for which the child is assessed a fee and attends  
17 classes regularly. "Higher education" means any community college, college, or university at which  
18 the child attends classes regularly. A child or children who have been diagnosed with a  
19 developmental disability, as defined under section 630.005, or whose physical disability or  
20 diagnosed health problem limits the child's or children's ability to carry the number of credit hours  
21 prescribed in this subdivision, shall remain eligible for maintenance so long as such child or  
22 children are enrolled in and attending an institution of vocational or higher education and the child  
23 or children continue to meet the other requirements of this subdivision. A child or children who are  
24 employed at least fifteen hours per week during the semester may take as few as nine credit hours  
25 per semester and remain eligible for maintenance so long as all other requirements of this  
26 subdivision are complied with.

27 4. The court shall order the person convicted of the offense of driving while intoxicated as  
28 provided under subsection 2 of this section to pay maintenance in an amount that is reasonable or  
29 necessary for the maintenance of the child or children after considering all relevant factors,  
30 including:

- 31 (1) The financial needs and resources of the child or children;
- 32 (2) The financial resources and needs of the surviving parent or, if no other parent is alive or  
33 capable of caring for the child or children, the guardian of the child or children, including the state if  
34 the state is the guardian;
- 35 (3) The standard of living the child or children would have enjoyed;
- 36 (4) The physical and emotional condition of the child or children and the child's or  
37 children's educational needs;
- 38 (5) The child's or children's physical and legal custody arrangements; and
- 39 (6) The reasonable work-related child care expenses of the surviving parent or guardian.

1       5. In addition to the relevant factors listed under subsection 4 of this section, the court shall  
2 consider the guidelines set out under subsection 8 of section 452.340 and Missouri Supreme Court  
3 Civil Procedure Rule Form 14 in determining the amount reasonable or necessary for the  
4 maintenance of the child or children.

5       6. (1) The court shall order that child maintenance payments be made to the circuit clerk as  
6 trustee for remittance to the surviving parent or guardian entitled to receive the payments. The  
7 circuit clerk shall remit such payments to the surviving parent or guardian within three working days  
8 of receipt by the circuit clerk. Circuit clerks shall deposit all receipts no later than the next working  
9 day after receipt.

10       (2) As an alternative to subdivision (1) of this subsection, the court may, upon its own  
11 motion, order that maintenance payments be made to the family support payment center established  
12 under section 454.530 as trustee for remittance to the surviving parent or guardian. However, the  
13 court shall not order payments to be made to the payment center if the family support division  
14 notifies the court that such payments shall not be made to the center. In such cases, payments shall  
15 be made to the clerk as trustee until the division notifies the court that payments shall be directed to  
16 the payment center.

17       7. In addition to any other remedy provided by law for the enforcement of child  
18 maintenance, if a maintenance order has been entered, the director of the family support division or  
19 the director's designee shall issue an order directing any employer or other payer of the person  
20 required to pay child maintenance under this section to withhold and pay over to the family support  
21 division or the clerk of the circuit court in the county in which a trusteeship is or will be established  
22 moneys due or to become due to the surviving parent or guardian for the child or children in an  
23 amount not to exceed federal wage garnishment limitations.

24       8. If a person ordered to pay child maintenance under this section is incarcerated and unable  
25 to pay the required maintenance, the person shall have up to one year after the release from  
26 incarceration to begin payment, including any arrearage. If any obligation under this section is to  
27 terminate as provided under subsection 2 of this section but the person's obligation is not paid in  
28 full, payments shall continue until the entire arrearage is paid.

29       9. (1) If the surviving parent or guardian of the child or children brings a civil action against  
30 the person convicted of driving while intoxicated prior to any child maintenance order under this  
31 section and the surviving parent or guardian obtains a judgment in his or her favor in the civil suit,  
32 no maintenance shall be ordered under this section.

33       (2) If the court orders child maintenance under this section but the surviving parent or  
34 guardian brings a civil action and obtains a judgment in his or her favor, the child maintenance order  
35 shall offset the judgment awarded in the civil action.

36       10. The provisions of any order respecting maintenance under this section may be modified  
37 only upon a showing of changed circumstances so substantial and continuing as to make the terms  
38 unreasonable."; and  
39  
40

Further amend said bill, Page 106, Section 556.039, Line 7, by inserting after said section and line the following:

"565.260. 1. Except as provided in subsection 2 of this section, a person commits the offense of unlawful tracking of a motor vehicle if the person knowingly installs, conceals, or otherwise places an electronic tracking device in or on a motor vehicle without the consent of all owners of the vehicle for the purpose of monitoring or following an occupant or occupants of the vehicle. As used in this section, "person" does not include the manufacturer of the motor vehicle.

2. (1) It shall not be an offense under this section if the installing, concealing, or placing of an electronic tracking device in or on a motor vehicle is by, or at the direction of, a law enforcement officer in furtherance of a criminal investigation and such investigation is carried out in accordance with applicable state and federal law.

(2) If the installing, concealing, or placing of an electronic tracking device in or on a motor vehicle is by, or at the direction of, a parent or legal guardian who owns or leases the vehicle, and if the device is used solely for the purpose of monitoring the minor child of the parent or legal guardian when the child is an occupant of the vehicle, the installation, concealment, or placement of the device in or on the vehicle without the consent of any or all occupants of the vehicle shall not be an offense under this section.

(3) It shall not be an offense under this section if the installing, concealing, or placing of an electronic tracking device in or on a motor vehicle is for the purpose of tracking the location of stolen goods being transported in the vehicle or for the purpose of tracking the location of the vehicle if the motor vehicle is stolen.

(4) It shall not be an offense under this section if the installing, concealing, or placing of an electronic tracking device in or on a motor vehicle is by a legally authorized representative of a vulnerable adult. As used in this subdivision, "vulnerable adult" means any person eighteen years of age or older who is impaired by reason of mental illness, intellectual or developmental disability, physical illness or disability, or other causes, including age, to the extent the adult lacks sufficient understanding or capacity to make, communicate, or carry out reasonable decisions concerning his or her well-being or has one or more limitations that substantially impair the adult's ability to independently provide for his or her daily needs or safeguard his or her person, property, or legal interests.

(5) If the installing, concealing, or placing of an electronic tracking device in or on a motor vehicle is by, or at the direction of, a person who obtains consent from all owners of the vehicle, the installation, concealment, or placement of the device in or on the vehicle shall not be an offense under this section.

(6) It shall not be an offense under this section if the installing, concealing, or placing of an electronic tracking device in or on a motor vehicle is by a vehicle rental, sharing, or leasing company that rents motor vehicles for the purpose of tracking or managing the motor vehicles owned by such company or providing services to customers.

1           (7) It shall not be an offense under this section if the installing, concealing, or placing of an  
2 electronic tracking device in or on a motor vehicle is by a lienholder or agent of a lienholder acting  
3 to track the movement or location of a motor vehicle in order to repossess the motor vehicle.

4           (8) It shall not be an offense under this section if the installing, concealing, or placing of an  
5 electronic tracking device in or on a motor vehicle is for any party to participate in a voluntary  
6 usage-based insurance program. "Voluntary usage-based insurance program" shall mean any  
7 program implemented by, or on behalf of, an insurance company that collects, records, or transmits  
8 information relating to driving behavior of an insured party.

9           3. The provisions of this section shall not apply to a tracking system installed by the  
10 manufacturer of a motor vehicle.

11           4. The offense of unlawful tracking of a motor vehicle is a class A misdemeanor for a first  
12 offense and a class E felony for any second or subsequent offense."; and

13  
14 Further amend said bill by amending the title, enacting clause, and intersectional references  
15 accordingly.