

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5099

By Delegates Butler, Akers, Coop-Gonzalez, Jeffries,

Brooks, Burkhammer, Kimble, Moore, and Pinson

[Introduced February 03, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §61-11C-1, §61-11C-2, and §61-11C-3, relating to requiring restitution
3 payments for child support of a child whose parent or guardian is a victim of a DUI causing
4 death, establishing that this is not retroactive, and setting an effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11C. MANDATORY RESTITUTION FOR CHILD OF VICTIM OF DUI

CAUSING DEATH.

§61-11C-1. Mandatory restitution for child of victim of DUI causing death.

1 (a) The court shall order a defendant convicted of an offense under §17-5-2(b) of this code,
2 to pay restitution for a child whose parent or guardian was the victim of the offense.
3 (b) Notwithstanding the provisions of §61-11A-1 *et seq.* of this code, and subject to
4 subsection (c), the court shall determine an amount to be paid monthly for the support of the child
5 until the child reaches 18 years of age or has graduated from high school, whichever is later.

6 (1) In the event that a civil action against the defendant arising from the same accident
7 awards a monetary award to the minor child of the victim, the amount of monthly support shall be
8 adjusted and offset by the amount of the judgment in the civil action;

9 (2) Any amount paid to a minor child of the victim paid by the defendant's insurance to
10 satisfy a judgment in a civil action arising from the same accident shall offset the amount of
11 restitution from the criminal action and the amount of monthly support shall be adjusted and
12 revised accordingly.

13 (c) The defendant may not be required to pay restitution under this article to an individual
14 who is 19 years of age or older.

15 (d) The court shall determine an amount for restitution under this article that is reasonable
16 and necessary to support the child, considering all relevant factors including:

17 (1) The financial needs and resources of the child;

18 (2) The financial needs and resources of the surviving parent or guardian or other current
19 guardian of the child or, if applicable, the financial resources of the state if the Department of
20 Family and Protective Services has been appointed as temporary or permanent managing
21 conservator of the child;

22 (3) The standard of living to which the child is accustomed;

23 (4) The physical and emotional condition of the child and the child's educational needs;

24 (5) The child's physical and legal custody arrangements; and

25 (6) The reasonable work-related child care expenses of the surviving parent or guardian or
26 other current guardian, if applicable.

27 (e) The order must require restitution payments to be:

28 (1) Delivered in the manner described by §61-11A-1 *et seq.* of this code;

29 (2) Directed to the parent or guardian of the child or the Department of Family and
30 Protective Services, as applicable.

31 (f) If a defendant ordered to pay restitution under this article is unable to make the required
32 restitution payments because the defendant is confined or imprisoned in a correctional facility, the
33 defendant shall begin payments not later than the first anniversary of the date of the defendant's
34 release from the facility. The defendant may enter into a payment plan to address any arrearage
35 that exists on the date of the defendant's release. The defendant must pay all arrearages
36 regardless of whether the restitution payments were scheduled to terminate while the defendant
37 was confined or imprisoned in the correctional facility.

38 (g) The amount of restitution paid under this article shall be deducted from any civil
39 judgment against the defendant as provided by §6-11A-1 *et seq.* of this code.

40 (h) Restitution order issued under this article may be enforced by the state, or by a person
41 or a parent or guardian of the person named in the order to receive the restitution, in the same
42 manner as a judgment in a civil action.

§61-11C-2. This Act is not retroactive.

1 The change in law made by this Act applies only to an offense committed on or after the
2 effective date of this Act. An offense committed before the effective date of this Act is governed by
3 the law in effect on the date the offense was committed, and the former law is continued in effect
4 for that purpose. For purposes of this section, an offense was committed before the effective date
5 of this Act if any element of the offense occurred before that date.

§61-11C-3. **Effective** _____ **date.** _____

1 This Act shall take effect July 1, 2026.

NOTE: The purpose of this bill is to require restitution payments for child support of a child whose parent or guardian is a victim of a DUI causing death.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.