

You Drink, You Drive, You Pay: An Analysis of Victim Compensation Methods Across the United States in Light of the Increasing State Interest in Bentley's Law

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I. INTRODUCTION

The epidemic of drunk driving has reared its monstrous head across the nation's highways for years.¹ Approximately thirty-two people die in drunk-driving crashes every day in the United States alone, amounting to the loss of a human life ²every 45 minutes.² Not only has drunk-driving had deleterious effects on the safety of those on our roadways, but it has been felt in the pockets of our government, costing the United States approximately ³\$44 billion [dollars] annually.³ States have responded to this growing crisis through legislation in a number of ways, spanning from the mandatory placement of ignition interlock device in the vehicles of DUI offenders to a conditional release from custody pending completion of a rehabilitation program.⁴

However, the families of deceased victims are often left to pick up the pieces on their own, usually with little assistance from state entities. For those who were dependent on the victim, such as young children, civil recourse is typically limited to wrongful death actions, funds obtained from a state Victim's Compensation Fund, or through court-ordered restitution to be paid by the convicted DUI offender. While no form of civil recovery can ever fully replace the loss of the victim, each of these forms of compensation carry with them a suite of issues for the families of DUI victims that generally render them unable to even come close to partial compensation.

This Note will proceed in four parts. Part I of this Note will discuss the history of one piece of legislation challenging the current state of victim's compensation for fatal drunk driving collisions, known as ⁵Bentley's Law,⁵ will lay out the requirements of bringing a successful claim under the law, and will explain how it differs from current forms of compensation. Next, Part II will briefly discuss the current state of victim compensation available for children of DUI victims in the states that have yet to adopt Bentley's Law. With this background, Part III will compare the shortcomings of these current avenues of compensation with the existing statutory requirements of Bentley's Law and will discuss how Bentley's Law will aid victims in ways other methods of victim compensation do not. Finally, due to the novelty of the law, Part IV will discuss questions raised on aspects of Bentley's Law and will examine how the legislation will be utilized in the judicial system.

¹ The Drunk Driving Epidemic, ROBERT J. DEBRY & ASSOCS., <https://robertdebry.com/drunk-driving-epidemic/> (last visited Jan. 15, 2023).

² Drunk Driving, NHSTA, <https://www.safercar.gov/risky-driving/drunk-driving> (last visited Jan. 15, 2023).

³ [Id.](#)

⁴ See State Ignition Interlock Laws, NAT'L CONF. STATE LEGIS. (Sept. 24, 2021), <https://www.ncsl.org/transportation/state-ignition-interlock-laws> (⁵As of 2021, thirty states and the District of Columbia have implemented laws ⁶requiring all offenders, including first-time offenders, to install an IID.⁷); see also ALA. CODE § 32-5A-191(k) (2022) (requiring any person convicted of driving while under the influence to ⁸complete a DUI or substance abuse court referral program⁹); [ARIZ. REV. STAT. ANN. § 28-1381\(j\) \(2022\) \(allowing ¹⁰all but one day¹¹ of a DUI offender's sentence to be suspended if the offender agrees to participate in and successfully completes a ¹²court ordered alcohol or other drug screening, education or treatment program¹³\).](#)

⁵ In the first district to have adopted Bentley's Law, the Tennessee legislature has amended the law to be formally known as the ¹⁴Ethan's, Hailey's and Bentley's Law¹⁵ to honor the children of Missouri couple Cordell Shawn Michael Williams and Lacey Williams as well as ¹⁶fallen Chattanooga Police Officer Nicholas Galinger¹⁷, all three of whom were victims of drunk driving collisions. Tennessee Governor Bill Lee Signs Ethan's, Hailey's and Bentley's Law, MOTHERS AGAINST DRUNK DRIVING

(July 7, 2022), <https://madd.org/press-release/tennessee-governor-bill-lee-signs-ethans-haileys-and-bentleys-law>. Because of its wide recognition in the media as ?Bentley's Law,? it will be addressed as such in this Note.

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