

[First Reprint]
SENATE, No. 478

STATE OF NEW JERSEY
222nd LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2026 SESSION

Sponsored by:

Senator OWEN HENRY

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Requires court to order financial support for child if child's parent or guardian is killed by drunk driver.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on October 15, 2026, with amendments.



1 AN ACT concerning vehicular homicide ¹**[and]**,¹ amending ¹**[and]**
 2 supplementing¹ N.J.S.2C:11-5 ¹, and supplementing chapter 11
 3 of Title 2C of the New Jersey Statutes¹.
 4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*
 7

8 1. N.J.S.2C:11-5 is amended to read as follows:

9 2C:11-5. Death by auto or vessel.

10 a. Criminal homicide constitutes reckless vehicular homicide
 11 when it is caused by driving a vehicle or vessel recklessly.

12 Proof that the defendant fell asleep while driving or was driving
 13 after having been without sleep for a period in excess of 24
 14 consecutive hours may give rise to an inference that the defendant
 15 was driving recklessly. Proof that the defendant was driving while
 16 intoxicated in violation of R.S.39:4-50 or was operating a vessel
 17 under the influence of alcohol or drugs in violation of section 3 of
 18 P.L.1952, c.157 (C.12:7-46) shall give rise to an inference that the
 19 defendant was driving recklessly. Proof that the defendant was
 20 operating a hand-held wireless telephone while driving a motor
 21 vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-97.3)
 22 may give rise to an inference that the defendant was driving
 23 recklessly. Proof that the defendant failed to maintain a lane in
 24 violation of R.S.39:4-88 may give rise to an inference that the
 25 defendant was driving recklessly. Nothing in this section shall be
 26 construed to in any way limit the conduct or conditions that may be
 27 found to constitute driving a vehicle or vessel recklessly.

28 b. Except as provided in paragraphs (3) and (5) of this
 29 subsection, reckless vehicular homicide is a crime of the second
 30 degree.

31 (1) If the defendant was operating the auto or vessel while under
 32 the influence of any intoxicating liquor, narcotic, hallucinogenic or
 33 habit-producing drug, or with a blood alcohol concentration at or
 34 above the prohibited level as prescribed in R.S.39:4-50, or if the
 35 defendant was operating the auto or vessel while his driver's license
 36 or reciprocity privilege was suspended or revoked for any violation
 37 of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), by the
 38 Chief Administrator of the New Jersey Motor Vehicle Commission
 39 pursuant to P.L.1982, c.85 (C.39:5-30a et seq.), or by the court for a
 40 violation of R.S.39:4-96, the defendant shall be sentenced to a term
 41 of imprisonment by the court. The term of imprisonment shall
 42 include the imposition of a minimum term. The minimum term
 43 shall be fixed at, or between, one-third and one-half of the sentence

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted October 15, 2026.

1 imposed by the court or three years, whichever is greater, during
2 which the defendant shall be ineligible for parole.

3 (2) The court shall not impose a mandatory sentence pursuant to
4 paragraph (1) of this subsection unless the grounds therefor have
5 been established at a hearing. At the hearing, which may occur at
6 the time of sentencing, the prosecutor shall establish by a
7 preponderance of the evidence that the defendant was operating the
8 auto or vessel while under the influence of any intoxicating liquor,
9 narcotic, hallucinogenic or habit-producing drug, or with a blood
10 alcohol concentration at or above the level prescribed in R.S.39:4-
11 50 or that the defendant was operating the auto or vessel while his
12 driver's license or reciprocity privilege was suspended or revoked
13 for any violation of R.S.39:4-50, section 2 of P.L.1981, c.512
14 (C.39:4-50.4a), by the Chief Administrator of the New Jersey Motor
15 Vehicle Commission pursuant to P.L.1982, c.85 (C.39:5-
16 30a et seq.), or by the court for a violation of R.S.39:4-96. In
17 making its findings, the court shall take judicial notice of any
18 evidence, testimony or information adduced at the trial, plea
19 hearing, or other court proceedings and shall also consider the
20 presentence report and any other relevant information.

21 (3) Reckless vehicular homicide is a crime of the first degree if
22 the defendant was operating the auto or vessel while in violation of
23 R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

24 (a) on any school property used for school purposes which is
25 owned by or leased to any elementary or secondary school or school
26 board, or within 1,000 feet of such school property;

27 (b) driving through a school crossing as defined in R.S.39:1-1 if
28 the municipality, by ordinance or resolution, has designated the
29 school crossing as such; or

30 (c) driving through a school crossing as defined in R.S.39:1-1
31 knowing that juveniles are present if the municipality has not
32 designated the school crossing as such by ordinance or resolution.

33 A map or true copy of a map depicting the location and
34 boundaries of the area on or within 1,000 feet of any property used
35 for school purposes which is owned by or leased to any elementary
36 or secondary school or school board produced pursuant to section 1
37 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
38 subparagraph (a) of this paragraph.

39 It shall be no defense to a prosecution for a violation of
40 subparagraph (a) or (b) of this paragraph that the defendant was
41 unaware that the prohibited conduct took place while on or within
42 1,000 feet of any school property or while driving through a school
43 crossing. Nor shall it be a defense to a prosecution under
44 subparagraph (a) or (b) of this paragraph that no juveniles were
45 present on the school property or crossing zone at the time of the
46 offense or that the school was not in session.

47 (4) If the defendant was operating the auto or vessel in violation
48 of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), the

1 defendant's license to operate a motor vehicle shall be suspended
 2 for a period of between five years and life, which period shall
 3 commence upon completion of any prison sentence imposed upon
 4 that person.

5 (5) Reckless Vehicular homicide is a crime of the third degree if
 6 the defendant proves by a preponderance of the evidence that the
 7 defendant did not commit any conduct constituting driving a vehicle
 8 or vessel recklessly other than failing to maintain a lane in violation
 9 of R.S.39:4-88.

10 c. For good cause shown, the court may, in accepting a plea of
 11 guilty under this section, order that such plea not be evidential in
 12 any civil proceeding.

13 d. Nothing herein shall be deemed to preclude, if the evidence
 14 so warrants, an indictment and conviction for aggravated
 15 manslaughter under the provisions of subsection a. of N.J.S.2C:11-
 16 4.

17 As used in this section, "auto or vessel" means all means of
 18 conveyance propelled otherwise than by muscular power.

19 e. Any person who violates paragraph (3) of subsection b. of
 20 this section shall forfeit the auto or vessel used in the commission
 21 of the offense, unless the defendant can establish at a hearing,
 22 which may occur at the time of sentencing, by a preponderance of
 23 the evidence that such forfeiture would constitute a serious hardship
 24 to the family of the defendant that outweighs the need to deter such
 25 conduct by the defendant and others. In making its findings, the
 26 court shall take judicial notice of any evidence, testimony, or
 27 information adduced at the trial, plea hearing, or other court
 28 proceedings and shall also consider the presentence report and any
 29 other relevant information. Forfeiture pursuant to this subsection
 30 shall be in addition to, and not in lieu of, civil forfeiture pursuant to
 31 chapter 64 of this Title.

32 f. In addition to any other ¹law requiring¹ restitution ¹[ordered
 33 by the court]¹, a person ¹[who commits] convicted of¹ reckless
 34 vehicular homicide while in violation of R.S.39:4-50 ¹which results
 35 in the death of a parent or guardian of a minor child¹ shall be
 36 ¹[ordered] required¹ to pay restitution ¹[on behalf of a] to the
 37 deceased parent's or guardian's spouse or other nearest surviving
 38 relative or guardian having legal custody of the¹ minor child ¹[if
 39 the deceased is the parent or guardian of the minor child]¹ in
 40 accordance with the provisions of section 2 of
 41 P.L. , c. (C.) (pending before the Legislature as this bill).
 42 ¹This restitution shall represent financial support for the minor child
 43 taking into consideration the loss of financial contributions from the
 44 deceased parent or guardian resulting from the reckless vehicular
 45 homicide.¹

46 (cf: P.L.2017, c.372, s.1)

1 2. (New section) a. Upon the entry of a judgment of
2 conviction for a violation of N.J.S.2C:11-5 which requires a
3 defendant¹, pursuant to subsection f. of that section,¹ to pay
4 ¹restitution to the deceased victim's spouse, other nearest surviving
5 relative, or guardian having legal custody of the victim's minor
6 child, representing¹ financial support ¹[on behalf of the] for the
7 minor¹ child ¹[of a deceased parent pursuant to subsection f. of
8 N.J.S.2C:11-5]¹, the sentencing court shall ¹[order restitution in
9 an] determine the¹ amount and ¹[for a]¹ duration ¹[that is
10 reasonable and necessary for the financial support of the child] of
11 the restitution pursuant to N.J.S.2C:43-3, N.J.S.2C:44-2 other than
12 paragraph (2) of subsection b. of that section concerning the
13 defendant's current or future ability to pay, and chapter 46 of Title
14 2C of the New Jersey Statutes¹ .

15 b. ¹[In determining the amount to be paid by a defendant for the
16 financial support of a child pursuant to this section, the court shall
17 consider, but not be limited to, the following factors:

- 18 (1) the financial needs and resources of the child;
19 (2) the financial needs and resources of the surviving parent or
20 guardian of the child, including the State if the child has been
21 placed under the care and custody of the Division of Child
22 Protection and Permanency in the Department of Children and
23 Families;
24 (3) the standard of living to which the child is accustomed;
25 (4) the physical and emotional needs of the child;
26 (5) the child's educational needs;
27 (6) the physical and legal custody arrangements for the child;
28 (7) the work-related child care expenses for the surviving parent
29 or guardian; and
30 (8) any other factor the court deems relevant.

31 c. The court shall order the defendant to pay financial support
32 on behalf of the child:

- 33 (1) until the child reaches 18 years of age or has graduated from
34 high school, whichever occurs later; or
35 (2) until the child reaches 21 years of age if the child suffers
36 from a mental or physical disability.

37 Notwithstanding any provisions of this subsection to the
38 contrary, any financial support ordered pursuant to this section shall
39 be for a period of not less than five years.

40 d. The court shall order the defendant to make the financial
41 support payments on behalf of the child to the clerk of the court,
42 who shall remit payment to the surviving parent or guardian within
43 10 business days of receipt of the payment.

44 e.¹ If a defendant who is ¹[ordered] required¹ to pay
45 ¹[financial support on behalf of a child] restitution¹ pursuant to this
46 section is incarcerated ¹[and unable to make the payments during
47 the period of incarceration]¹, the ¹[defendant's financial support

1 obligation] defendant¹ shall ¹[accrue] not be required to make any
2 restitution payments¹ during the period of incarceration ¹[but the
3 defendant shall have up to one year following the release from
4 incarceration to begin making payments]¹.

5 ¹[f. If] c. Other than during a period of incarceration as set forth
6 in subsection b. of this section, if the defendant defaults in the
7 payment of restitution or any installment thereof or¹ an arrearage
8 exists at the ¹[time the period of financial support is scheduled to
9 terminate,] end of the duration of the restitution determined by¹ the
10 court ¹[shall order the defendant to continue to make payments
11 until the arrearage is paid in full] pursuant to subsection a. of this
12 section, the defendant shall be subject to the consequences of
13 nonpayment set forth in N.J.S.2C:46-2¹.

14 ¹[g.] d.¹ If the surviving parent or guardian brings a civil
15 action against a defendant following the entry of ¹[an order of
16 financial support] judgement with required restitution¹ pursuant to
17 this section, the judgment ordered in the civil action shall be offset
18 by any ¹[financial support payments ordered] restitution provided¹
19 pursuant to this section ¹to avoid double compensation for the same
20 loss¹.

21
22 3. This act shall take effect on the first day of the second month
23 next following the date of enactment.