

March 13, 2025

Greetings Representative Schauer,

I write in support of HB 1558. It delivers clear and important authority for a court to order a criminal vehicular homicide offender (“CVH Offender”) to pay restitution for the benefit of the victim’s children. In doing so, the bill presents an easy-to-follow method for each participant in the justice system.

The bill equips the court with an additional tool to enhance justice – authority to order parental loss restitution in cases where the victim was the parent of minor children. A judge would be empowered to require a CVH Offender to pay restitution until each child of the victim reaches eighteen years of age. A potential enforcement mechanism is provided as the restitution payments could be ordered as a condition of the CVH Offender’s probation. HB 1558 wisely sets parameters for the court regarding the extent of probation. An initial probationary term could be supervised in accordance with the existing provisions of the Criminal Code, i.e., N.D.C.C. 12.1-32-06.1(2). Under the bill, an additional probationary term could be ordered but would be unsupervised and could last as long the restitution duty continue. The result: the appropriate extent of probation for sufficient duration to require payments to benefit the victim’s children while reducing unnecessary supervision expenses incurred by the North Dakota Department of Corrections and Rehabilitation.

The bill establishes a protocol for the surviving parent or legal guardian (“Survivor”) of the victim’s children. A claim affidavit and supporting information are identified as the means for the Survivor to request restitution. In addition, the Survivor is advised of seven specific factors used to determine the amount of restitution that is reasonable and necessary for the maintenance of the children.

HB 1558 safeguards rights of the CVH Offender. The bill recognizes the CVH Offender’s right to a hearing on the issue of parental loss restitution. It likewise points out the right to notice of the evidence supporting a Survivor’s request for restitution; at least ten days before the hearing, the CVH Offender would have the right to be served with a copy of the claim affidavit and supporting information.

The bill guides the prosecutor. It expressly sets out the prosecutor's simple additional duty to serve the CVH Offender with a copy of the Survivor's claim affidavit and supporting information. As noted, the bill also advises the prosecutor on the process, the Survivor's request and the specific factors used to determine the amount of parental loss restitution, and the CVH Offender's rights.

You teamed with criminal defense and prosecution representatives to craft an efficient option to better serve justice. HB 1558 is the product of your team's collaboration. It would be a valuable addition to the criminal justice system - helping the children of victims who've been tragically killed.

Best regards,

Judge Reid Brady

East Central Judicial District Court