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January 21, 2025

Support HB 1558 to require child restitution payments in fatal impaired driving crashes

The Honorable Lawrence Klemin
Chairman, House Judiciary Committee

Dear Chair Klemin and House Judiciary Committee Members,

Mothers Against Drunk Driving (MADD) urges you to support and advance HB 1558 by Representative Schauer to require impaired drivers who cause a fatal crash to pay restitution in the form of child support to a surviving spouse or other relatives who are raising the children of impaired driving victims until the children turn 18. Nationally, this legislative movement is called Bentley's Law. Since 2022, six states enacted Bentley's Law: Tennessee, Kentucky, Texas, Maine, South Dakota and Utah.

The problem of impaired driving is not going away. Drunk driving is still a deadly crime. According to the National Highway Traffic Safety Administration (NHTSA), 34 people were killed in drunk driving crashes in North Dakota in 2022 representing 34% of all traffic fatalities.

Bentley's Law better ensures justice and accountability. MADD believes that passing this proposal will make people think twice before getting behind the wheel impaired. If a person makes the choice to drive impaired and kills parent, the person will encounter another consequence for their deadly decision. To the victims of the impaired drivers, this proposal allows for another avenue of restitution to help ensure justice.

MADD urges you to please advance HB 1558. Enclosed is more information on questions relating to the implementation of proposals like HB 1558. If you have any questions, please do not hesitate to contact me at veronica.hawman@madd.org or 651-523-0802 Ext. 2751. Thank you for your time and consideration.

Sincerely,

Veronica Hawman
MADD Minnesota-North Dakota-South Dakota Regional Executive Director

Q and A on the Implementation of Bentley's Law

Since 2022, six states enacted Bentley's Law: Tennessee, Kentucky, Texas, Maine, South Dakota and Utah

Which court determines restitution payments? In states with Bentley's Law, the cases are adjudicated in civil court.

When will impaired drivers start making restitution payments? Most proposals allow impaired drivers to wait at least one-year after they are released from incarceration to start making payments.

Will impaired drivers be able to afford restitution payments? There will be instances where an impaired driver is able to make restitution payments. Currently, after incarceration, impaired drivers who kill a person may have a list of mandatory payments and fines to make as part of their sentence. If a court orders restitution payments as part of Bentley's Law, the payments would be part of other mandatory payments required by law. MADD believes restitution payments made to victims should take priority over other mandatory fines or fees.

What should the court consider in determining restitution amount? The court shall consider all relevant factors, including the:

1. Financial needs and resources of the child or dependent;
2. Financial resources and needs of the surviving parent or guardian of the child or dependent;
3. Standard of living to which the child or dependent is accustomed;
4. Physical and emotional condition of the child or dependent and the child's or dependent's educational needs;
5. Child's or dependent's physical and legal custody arrangements; and
6. Reasonable childcare expenses of the surviving parent or guardian.

Will most impaired drivers still be incarcerated when the surviving children turn 18? There will be instances where an offender will still be incarcerated when the surviving child turns 18, but impaired drivers who cause fatal impaired driving crashes do not typically receive lengthy sentences. Additionally, impaired drivers are released early and do not serve their full initial court-ordered sentence.

Who will monitor the restitution payments? The payments would be monitored and enforced in the same framework as required civil case payments.

Would Bentley's Law limit recovery in wrongful death suits? No. A victim could still obtain recovery from third parties (not the impaired driver who caused the crash). However, payments made by the offender to victims via Bentley's Law would offset other civil lawsuits against the offender made by the victims (ie. the impaired driver would not be subject to Double Jeopardy).

Would this be faster than the current remedy (civil suits)? In some cases, it might be quicker to obtain a remedy from a third party (not the offender). Bentley's Law payments would run concurrently to any third-party civil remedies.