

69th Legislative Assembly
ENGROSSED HB 1558
March 25th, 2025
Peace Garden Room

Madame Chair, Members of the Committee:

My name is Jonathan Byers, and I am the lobbyist for the N.D. States Attorney's Association. The States Attorneys are OPPOSED to Engrossed House Bill 1558 and ask for a do not pass.

I've learned in 6 years of private practice, after 27 working in this building, how much work goes into preparing and frequently negotiating, a person injury case. The process of achieving a just settlement or verdict can take years.

HB 1558 purports to skip all that and establish the settlement of the wrongful death action for children of victims of vehicular homicide in the restitution phase of the criminal case.

Several concerns lead the State's Attorney Association to oppose this bill:

- The prosecutor is required to notify the defendant prior to the restitution hearing of the "recommended amount of parental loss restitution." This requires that the State's Attorney be the one to gather all the information the Court will later need, subtract the other sources the child may have received payment from, and formulate the recommendation.
- For the spots where the bill says, "The court may consider" or "The court may subtract," the Court is going to be expecting the State's Attorney to present evidence of the relevant factors listed in paragraph 5 on page 2 of the bill. Likewise, the States Attorney will be expected to be familiar with all the subtraction amounts that are listed in paragraph 6. The relevant factors and the subtraction amounts are some of the things that take up to several years to develop. This bill requires it be done at sentencing or within 60 days of sentencing, and the notice has to be in advance of that.
- Most State's Attorneys offices don't have a paralegal or investigator to gather the information that will enable the State's Attorney to send notice to the defendant and to apprise the court.

- There is some question whether NDIRF will even cover the State's Attorneys activities in this regard.
- Some sources of payment to the child of a victim are payers of last resort. So, for instance, Crime Victim's Compensation might be foreclosed because the victim has recourse through parental loss restitution.
- HB 1558 sets up the State's Attorney's Office as the financial repository for the parental loss restitution. Many States Attorneys office do not handle criminal restitution and do not have accounts or staff for doing this.
- Proponents might contend that there are not that many vehicular homicide prosecutions, so this is no big deal. However, in future legislative sessions, there will be no legitimate way to distinguish vehicular homicides from other homicides, or other violent crimes where the parent is severely injured and can't work.

The burden that passage of this bill puts on State's Attorneys is immense. It is an unfunded mandate, and will be almost impossible to comply with. The NDSAA asks for a do not pass.