

HB 1558

Hearing date: March 24, 2025

Senate Judiciary Committee 2025 ND Legislature

Chairperson Diane Larson
Committee Members

From: Rozanna C Larson
Ward County State's Attorney

RE: House Bill 1558

Chairperson Larson and Members of the Committee,

This is my written testimony requesting opposing HB 1558. I am the State's Attorney for Ward County and have been a prosecutor for 27 years.

HB 1558 has been called the "parental loss" bill. The bill requires the State's Attorney's Office to put forth the claim of parental loss for any children who lose a parent in a criminal vehicular matter. The "parental loss" is calculated by determining the financial needs and resources of the child, the needs and resources of the surviving parent etc. HB 1558 also appears to allow the Court to amend the restitution order, subsection 6 "in an initial parental loss restitution, or in an amendment to parental loss restitution order"...

Currently restitution is sought on all cases where there is a financial loss. Restitution in a criminal matter is limited to "actual" loss, expenses, damages etc. Medical bills, property loss, etc. Restitution is determined by actual receipts of monies paid out that can be associated directly to the crime committed. Restitution can also be determined by the victim testifying to the value of the property stolen, etc. The restitution order is defined loss at the time, not speculative loss.

In short HB 1558 requires State's Attorneys and defense attorneys to become personal injury attorneys in a criminal matter. HB 1558 makes State's Attorneys de facto private attorneys for the survivors of the person lost in this crime. By statute State's Attorneys cannot represent private parties.

Parental loss, (personal injury) cases are cases handled by attorneys specializing in that area of law. It requires experts in determining speculative costs of living, loss wages (and increases), costs of education, etc. State's Attorneys' offices do not specialize in this area of law. "Representing" survivors in this area of "restitution" could open State's Attorneys, and County's to liability and malpractice for perceived miscalculations.

These calculations would require hiring experts in this field to, such as accountants, life insurance agents, etc. This would be an additional cost to the Counties, which would not be

reimbursed in the Judgement. In criminal matters, the Court cannot assess costs to the defendant for the cost of prosecution. This would be one of those costs. In a private personal injury suit, like this, the attorney representing the survivors gets their expenses and costs reimbursed.

HB 1558 sets out that the “parental loss” shall be determined at the time of sentencing, or within 60 days of sentencing, unless the period of time is extended for good cause. In a criminal case the Court loses jurisdiction to amend the judgement after 120 days. Personal injury cases, such as what is the subject of HB 1558, can take several years before there is a resolution. The bill also requires the payments to be collected by the Clerk of Court, then remitted to the State’s Attorneys office, then the State’s Attorneys office remits to the survivors. Currently the Clerk of Court collects restitution and pays it out to the victims. Requiring the State’s Attorneys office to handle “client” funds is another added liability to the County.