

2025 HOUSE JUDICIARY

HB 1558

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1558
1/29/2025

Relating to probation and parental loss restitution; to provide a penalty; and to provide for application.

11:04 a.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, Johnston, McLeod, S. Olson, Satrom, Tveit, VanWinkle, Wolff, Schneider

Discussion Topics:

- Doctrine of double recovery
- Bentley's law

11:04 a.m. Representative Austen Schauer, North Dakota Representative for District 13, introduced the bill and provided testimony #31963 and #32588.

11:18 a.m. Tom Deutscher, North Dakota citizen, testified in favor and provided testimony #33267.

11:25 a.m. Frank Harris, Director of State Government Affairs for Mothers Against Drunk Driving, testified in favor and provided testimony #31272.

11:31 a.m. Travis Finck, Director at the North Dakota Commission on Legal Counsel for Indigents, testified neutrally and provided testimony #32371.

Additional written testimony:

Stephanie Engebretson, Chiefs of Police Association of North Dakota, submitted testimony in favor #32256

11:45 a.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk



IMPAIRED
DRIVING
ENDS HERE.

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.

Good morning, Chairman Klemin and members of the House Judiciary Committee.

My name is Austen Schauer, District 13 in West Fargo.

On July 6, 2012, Aaron Deutscher, his wife Allison (who was three and a half months pregnant), along with their 18-month-old daughter Brielle packed their vehicle in West Fargo for a family reunion in Bismarck.

The Deutschers never arrived as they were killed by a drunk driver.

Over the last five years, there have been 172 fatal crashes in North Dakota killing 191 people and injuring nearly two thousand people.

35% of those fatalities involved alcohol abuse.

A recent Forbes article says North Dakota is the **fifth worst state** for drunk driving. Our state has the **second highest rate of DUI arrests**, and the **ninth highest rate** of drunk drivers involved in fatal crashes.

Montana is the worst state for drunk driving followed by South Dakota.

We have a problem that we need to address.

Today, I bring you **House Bill 1558**.

This bill provides the North Dakota judicial system with the authority to order offenders of criminal vehicular homicide to pay **child restitution** when the deceased victim was a parent or guardian of a minor child.

This measure aims to ensure that the children left behind receive the financial support they need for their well-being and development.

HB 1558 outlines specific considerations for determining the amount of child restitution, including factors such as the financial needs of the child, the resources of the surviving parent or guardian, the child's standard of living, educational needs, custody arrangements, and childcare expenses.

By establishing clear judicial guidelines for calculating child restitution, **HB 1558** provides consistency and fairness to ensure these children receive adequate financial support following a tragic and life-changing incident involving their parents.

Furthermore, **HB 1558** addresses the situation where a defendant is ordered to pay child restitution but is incarcerated. The defendant will have up to one year for payment following his/her release.

The court can also adjust or amend a restitution judgment from a civil award received by the child's surviving parent or legal guardian.

Will this bill be a deterrent against driving drunk?

We believe the answer is yes with proper education.

People need to know if they choose to drive drunk, they not only risk their own life, (and the lives of others), but they also can face serious financial consequences in restitution.

This can become a significant part of any anti-drunk driving marketing campaign. We can get the word out.

Let this committee, Mr. Chairman, and the 69th legislative body send a strong message about the consequences of reckless and irresponsible actions behind the wheel.

This bill embodies North Dakota's commitment to upholding justice, protecting the interests of children, and fostering accountability among offenders.

Alcohol and drug-related crashes are 100% preventable. Many lives would be saved if every driver consistently made a choice to drive **sober** or get someone else to drive.

But if they don't and end up killing a parent with young children at home, **HB 1558** lets our judges determine whether restitution should be part of the punishment for this needless crime.

I ask for your support and stand open for questions. Thank you, Mr. Chairman.

January 29, 2024

House Judiciary Committee

HB 1558

Representative Lawrence R. Klemin, Chair

For the record, I am Stephanie Dassinger Engebretson. I am submitting this testimony on behalf of the Chiefs of Police Association of North Dakota in support of HB 1558. I am also the deputy director and attorney for the North Dakota League of Cities.

HB 1558 creates a remedy to try to make sure a child is financially supported when his or her parent is killed by an impaired driver. According to the North Dakota Crash Summary, published in 2023, 191 people have died in alcohol-related car crashes in the last 5 years in North Dakota. The Summary also provides that one alcohol-related crash occurs every 13 hours and that every 10 days an alcohol-related vehicle fatality occurs in North Dakota.

Law enforcement deals with alcohol-related driving offenses way too often and unfortunately, sometimes, those incidents involve car crashes and deaths. HB 1558 would create a remedy within the criminal court proceeding for a child victim to get financial support from the individual who killed his or her parents.

HB 1558 is a good bill that protects children whose parents are killed by impaired drivers. The Chiefs of Police Association of North Dakota respectfully requests a Do Pass recommendation on HB 1558.

HB 1558
69th Legislative Assembly
House Judiciary Committee
Neutral Testimony of Travis W. Finck
January 29, 2025

Mr. Chairman, members of the House Judiciary Committee, my name is Travis Finck and I am the Executive Director for the North Dakota Commission on Legal Counsel for Indigents. The Commission is the state agency responsible for the delivery of public defense services in the state of North Dakota. We rise today to provide neutral testimony on HB 1558.

The Commission wishes to point out Section 1 of HB 1558 creates an unnecessary hurdle to this bill passing. Surprisingly, legislative council did not ask the North Dakota Department of Corrections, Parole and Probation, to provide a fiscal note. Under section 1 of this bill, a defendant convicted of criminal vehicular homicide could be on supervised probation for a term of 3 years up until the remainder of their life.

An offender sentenced under NDCC 39-08-01.2 – Criminal Vehicular Homicide, is guilty of a Class A Felony. There is a minimum sentence of 3 years in prison for a first offense and if any prior convictions for driving under the influence, a mandatory 10-year sentence. Once released from their sentence, a defendant would be placed on 3 years supervised probation. The probation is required to be supervised under NDCC 12.1-32-07 because it is a felony.

Section 1 of this act allows probation to continue as long as necessary to make the parental loss restitution payments. In the case of indigent individual, this could be a lifetime depending on the amount ordered. As such, would section 1 make the probation supervised? I don't believe the bill is clear.

If section 1 were to be removed, the judge could still order restitution, a defendant would still be placed on supervised probation, and if not complete at the end of the three years of supervised probation, the court would still have options. NDCC 12.1-32-06.1(3) provides "If the defendant has pled or been found guilty of an offense for which the court imposes a sentence of restitution or reparation for damages resulting from the commission of the offense, the court may, following a restitution hearing pursuant to section 12.1-32-08, impose additional periods of **unsupervised probation** not to exceed five years for each additional period imposed". **Emphasis added.** This statute would allow probation to continue similar to section 1, but mandates the probation be unsupervised. Alternatively, if the defendant has completed all other aspects of the probation, the court could reduce the amount of restitution to a civil judgment. These are commonly used in courts all across our state.

Leaving a defendant on probation to try and coerce payments may cause equal protection problems. The U.S. Supreme Court in Bearden v. Georgia held a defendant's probation may not be revoked for failure to pay restitution, absent a finding the defendant was responsible for the failure to pay. 461 U.S. 660, 672 (1983). The North Dakota Supreme Court has been dealing with this concept since Bearden. The passage of Article I, Section 25 of the North Dakota Constitution complicated restitution laws even further. Eventually, the North Dakota Supreme Court determined NDCC 12.1-32-08(1) requiring the court to assess ability to pay when setting restitution was unconstitutional. See State v. Strom, 2019 ND 9. However, the North Dakota Supreme Court was clear although ability to pay is not considered in setting the amount of restitution, it is still required in assessing the failure to pay when considering revocation of probation. Id., at ¶ 9. The North Dakota 66th Legislative Assembly then changed NDCC 12.1-32-08 in HB 1252 and SB 2068 that session to remove the ability to pay consideration when setting probation. The restitution statute was further amended in 2023 session with HB 1041. The result is the current statute.

Although six states have recently enacted these statutes the Commission believes the purpose of this act can already be achieved under Article 1, Section 25 of the North Dakota Constitution. Article 1, Section 25(1)(n) provides "the right to full and timely restitution in every case and from each offender for all losses suffered by the victim as a result of the criminal or delinquent conduct." Furthermore, Article 1, Section 25(4) provides who is defined as a victim. A child of a decedent in a criminal vehicular homicide case would be a victim. See Art.I, Sec. 25(4), (providing If a victim is deceased, incompetent, incapacitated, or a minor, the victim's spouse, parent, grandparent, child, sibling, grandchild, or guardian, and any person with a relationship to the victim that is substantially similar to a listed relationship, may also exercise these rights).

The Commission does not take a position on the concept of parental responsibility this bill seeks to implement. Rather, the Commission has questions relating to the lengths of probation and whether or not this bill is necessary to achieve the intent of the bill.

Respectfully submitted:



Travis W. Finck
Executive Director, NDCLCI

Hi Austen,

Below is a redraft of subsection 9 (relating to a civil judgment for parental loss restitution), which attempts to account for the criminal judgment's inability to set out an accrued amount of parental loss restitution owed.

Under the redraft, North Dakota Rule of Court 3.2 would necessarily be implicated (as it applies to all motions unless another specific rule covers the situation), thus providing the defendant with a specific timeframe to respond and opportunity to request a hearing.

9. Upon motion of the prosecutor and evidence establishing the amount of accrued parental loss restitution that has been ordered but not paid, the court may order a civil judgment for such amount be docketed in the same manner as a civil judgment under section 29-26-22.1. The motion must be served upon the surviving parent or legal guardian at the last known address of the parent or guardian and upon the individual subject to the parental loss restitution order.

(Reid Brady - Bentley's Law)

- Good morning Mr. Chairmen and distinguished members of the Judiciary Committee.
- Representative Schauer reminded the committee of the young west fargo family who were senselessly killed by a drunk driver.....that was my family.
- My name is Tom Deutscher. Some of you may remember July 6th 2012.... others not. But with the loss of and at the expense of our children ... this very committee bravely considered HB1302 otherwise known as Brielle's Law. Unanimously agreeing that it was time to address the growing numbers of DUI accidents and fatalities.... and the burden it imposes on all of us.
- I can certainly testify to the tremendous strain it can put on a family's personal, social and financial situations. They are essentially immeasurable.... it nearly destroyed my family so I retired early for the sole purpose of holding my remaining family together.
- In a scenario where our grandchildren somehow survived....it would have been left up to the relatives to raise them..... a hardship in many ways but we could have probably done it. This is not always the case as most of us can attest to today's cost of raising our own children much less someone else's....and I'm assuming that most of us in the room are not the Kardashians.

- I believe this bill has several notable purposes...addressing the necessity for additional deterrents to a growing impaired driving issue.... and holding those accountable by providing financial assistance to the applicable surviving children.
- 12 years ago I stood before this very committee..... and I remember one member saying to me...that some of the more challenging decisions he's had to make were those which revolved around families. At times they seemed far reaching and impactful...and that sometimes the right decision may not always be the popular decision.
- Someone once said ... that most victims have no voice in their fate and that sometimes ... just sometimes...others have to be their voice. Be their voice.
- I ask that you seriously consider HB 1558 to be utilized (at the courts discretion) for the disadvantaged children in these cases and to advance our agenda of reducing the number of impaired driver arrests, accidents and fatalities.
- To this committee and Mr. Chairman ... I thank you ...questions?

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1558
1/29/2025

Relating to restitution for the child of a victim of criminal vehicular homicide and conditions of probation; to provide a penalty; and to provide for application.

2:32 p.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Henderson, Hoverson, Johnston, McLeod, S. Olson, Tveit, VanWinkle, Wolff, Schneider

Members Absent: Representative Satrom

Discussion Topics:

- Minimum liability in North Dakota
- Different types of insurance

2:45 p.m. Representative S. Olson moved to adopt amendment LC: 25.0072.04001

2:45 p.m. Representative Karls seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	Y
Representative Nels Christianson	Y
Representative Donna Henderson	Y
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y
Representative Bernie Satrom	A
Representative Mary Schneider	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

2:47 p.m. Motion passed 13-0-1

2:47 p.m. Representative Wolff Moved a Do Pass as Amended.

2:47 p.m. Representative Vetter seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	Y
Representative Nels Christianson	Y
Representative Donna Henderson	N
Representative Jeff Hoverson	Y
Representative Daniel Johnston	Y
Representative Carrie McLeod	A
Representative SuAnn Olson	Y
Representative Bernie Satrom	A
Representative Mary Schneider	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

2:53 p.m. Motion passed 11-1-2

2:53 p.m. Chairman Klemin will carry the bill.

2:53 p.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

January 29, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1558

Introduced by

Representatives Schauer, D. Anderson, Ista, J. Johnson, Jonas, Richter, Beltz, Heinert,
Schreiber-Beck

Senators Clemens, Conley, Wanzek

JB 1-29-25
1084

1 A BILL for an Act to create and enact a new subdivision to subsection 4 of section 12.1-32-07, a
2 new subsection to section 12.1-32-08, and a new section to chapter 39-08 of the North Dakota
3 Century Code, relating to restitution for the child of a victim of criminal vehicular homicide and
4 conditions of probation; ~~to amend and reenact subsection 5 of section 12.1-32-06.1 of the North~~
5 ~~Dakota Century Code, relating to probation and parental loss restitution;~~ to provide a penalty;
6 and to provide for application.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 ~~— **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-32-06.1 of the North Dakota~~
9 ~~Century Code is amended and reenacted as follows:~~
10 ~~— **5.** If the defendant has pled or been found guilty of abandonment or nonsupport of~~
11 ~~spouse or children or of criminal vehicular homicide in violation of section 39-08-01.2,~~
12 ~~the period of probation may be continued for as long as responsibility for support or~~
13 ~~parental loss restitution continues.~~

14 **SECTION 1.** A new subdivision to subsection 4 of section 12.1-32-07 of the North Dakota
15 Century Code is created and enacted as follows:

16 Pay parental loss restitution. When parental loss restitution is a condition of
17 probation, the court shall proceed as provided in chapter 39-08.

18 **SECTION 2.** A new subsection to section 12.1-32-08 of the North Dakota Century Code is
19 created and enacted as follows:

JB 2064

1 When sentencing a person adjudged guilty of criminal vehicular homicide in violation
2 of section 39-08-01.2, the court may order, in accordance with the provisions of
3 section 4 of this Act, parental loss restitution.

4 **SECTION 3.** A new section to chapter 39-08 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Parental loss restitution payments for criminal vehicular homicide.**

- 7 1. As used in this section, "incarcerated" means confined or imprisoned in a jail, prison,
8 penitentiary, juvenile facility, or other correctional institution or facility, or a place or
9 condition of confinement or forcible restraint regardless of the nature of the institution
10 in which the individual serves a sentence for a conviction.
- 11 2. If an individual pleads guilty or nolo contendere to, or is found guilty of criminal
12 vehicular homicide under section 39-08-01.2 and the deceased victim of the offense
13 was the parent or legal guardian of a minor child, the court may order the individual to
14 pay restitution monthly to each of the victim's children until each child reaches
15 eighteen years of age.
- 16 3. The court may order the parental loss restitution at the time of sentencing or within
17 sixty days of sentencing, unless that period is extended for good cause. A hearing
18 must be held at the time of sentencing or another time, unless the individual waives
19 the right to a hearing.
- 20 4. The prosecutor shall notify the individual of the recommended amount of parental loss
21 restitution before the hearing under subsection 3.
- 22 5. The court may consider all relevant factors in determining a parental loss restitution
23 amount that is reasonable and necessary for the maintenance of each child, including:
- 24 a. The financial needs and resources of the child;
25 b. The financial needs and resources of the surviving parent, or if no other parent is
26 alive or capable of caring for the child, the legal guardian of the child;
27 c. The standard of living to which the child is accustomed;
28 d. The physical and emotional condition of the child and the child's educational
29 needs;
30 e. The child's physical and legal custody arrangements;

JB 3/14

- 1 f. The reasonable work-related child care expenses of the surviving parent or legal
2 guardian; and
- 3 g. Any monetary or insurance settlement, amount, damages, or award received or
4 anticipated arising from the criminal vehicular homicide incident.
- 5 6. In an initial order for parental loss restitution, or in an amendment to a parental loss
6 restitution order, the court may subtract from the total amount of parental loss
7 restitution ordered under subsection 5, any monetary or insurance settlement, amount,
8 damages, or civil award received by the child's surviving parent or legal guardian
9 arising from the criminal vehicular homicide incident.
- 10 7. The court may order the parental loss restitution payments be made to the clerk of
11 court as trustee for remittance to the state's attorney's office. The clerk shall remit the
12 payments to the state's attorney's office within ten working days of receipt by the clerk.
13 The state's attorney's office shall deposit all payments no later than the next business
14 day after receipt. The state's attorney's office shall remit payments to the surviving
15 parent or legal guardian within ten working days.
- 16 8. If the individual ordered to pay parental loss restitution under this section is
17 incarcerated and unable to pay the required amount, the individual shall begin
18 payment, including entering a payment plan to address any arrearage, within one year
19 from the date of the individual's release from incarceration. If the individual's parental
20 loss restitution payments are set to terminate but the individual's obligation is not paid
21 in full, the parental loss restitution payments continue until the arrearage is paid in full.
- 22 9. Upon ~~thirty days' written notice to the surviving parent or legal guardian's last known~~
23 ~~address~~ motion of the prosecutor supported by evidence establishing the amount of
24 unpaid accrued parental loss restitution ordered by the court, the court may order ~~the a~~
25 civil judgment imposing a duty to pay parental loss restitution for the amount be
26 docketed in the same manner as a civil judgment under section 29-26-22.1. The
27 motion must be served on the surviving parent or legal guardian at the last known
28 address of the parent or guardian and on the individual subject to the parental loss
29 restitution order.
- 30 10. Except as provided under subsection 6, an order for parental loss restitution may not
31 be modified.

Jgm 4084

- 1 **SECTION 4. APPLICATION.** This Act applies to a criminal charge for criminal vehicular
- 2 homicide filed on or after the effective date of this Act.

**REPORT OF STANDING COMMITTEE
HB 1558**

Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS** ([25.0072.04001](#)) and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1558 was placed on the Sixth order on the calendar.

2025 SENATE JUDICIARY

HB 1558

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

HB 1558
3/25/2025

Relating to restitution for the child of a victim of criminal vehicular homicide and conditions of probation; to provide a penalty; and to provide for application.

9:00 a.m. Chair Larson opened the meeting.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Judicial authority in sentencing
- Documentation challenges
- Evidence challenges
- Impact on small county prosecutors
- Definitions of financial needs
- Future implications

9:00 a.m. Representative Austen Schauer, District 13, introduced the bill, explained amendments, and submitted testimony in favor #43621 and #43724.

9:16 a.m. Nicole T. Louthain, testified in favor and submitted testimony #43709.

9:22 a.m. Frank Harris, Mothers Against Drunk Driving, testified in favor and submitted testimony #43411.

9:29 a.m. Jonathan R. Byers, Lobbyist, North Dakota States Attorneys Association, testified in opposition and submitted testimony #43700.

9:48 a.m. Chase R. Lingle, Morton County State's Attorney's Office, testified in opposition.

9:57 a.m. Amber Fiesel, State's Attorney, Burke County, testified in opposition and submitted testimony #43719.

10:01 a.m. Travis Finck, Executive Director, ND Commission on Legal Counsel for Indigents, testified as neutral.

Additional written testimony:

Jesse Jahner, Sheriff, Cass County Sheriff's Office, submitted testimony in favor #43429.

Stephanie Engebretson, Chiefs of Police Association of North Dakota, submitted testimony in favor #43704.

Jaclyn Hall, North Dakota Association for Justice, North Dakota Association for Justice, submitted testimony in opposition #43717.

Rozanna C. Larson, member, Ward County State's Attorney, submitted testimony in opposition #43720.

10:07 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk



March 21, 2025

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

The Honorable Diane Larson
Chair, Senate Judiciary Committee

Dear Chair Larson and Senate 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. In 2025, Montana and Hawaii have legislation that passed their chamber of origin and are currently pending consideration in the opposite chamber.

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 MADD Minnesota-North Dakota-South Dakota Regional Executive Director Veronica Hawman at veronica.hawman@madd.org or 651-523-0802 Ext. 2751. Thank you for your time and consideration.

Sincerely,

Frank Harris
MADD Director of State Government Affairs

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.

Testimony in Support of House Bill 1558.

Good afternoon, Madam Chair Larson and members of the Senate Judiciary Committee,

For the record my name is Jesse Jahner, and I am the elected Sheriff in Cass County North Dakota currently serving in my second year of my second term. I have worked with the Cass County Sheriff's Office since May of 1998. During my time at the Sheriff's Office, I have worked in Corrections, Patrol, Investigations, Narcotics Investigations, Street Crime Investigations and in Special Operations. I have served as the Dakota Territories (North and South Dakota) Sheriff's Association President and currently serve as a National Sheriff's Association Board Member.

I write testimony today in favor of House Bill (HB) 1558. HB 1558 will require a defendant found guilty of criminal vehicular homicide 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 they turn 18. Six states have already enacted similar legislation that is often referred to as Bentley's Law. The law allows for due process in determining the restitution amount and considers many factors which I believe are relevant to a situation where a child has lost their parent or legal guardian. These types of situations can most certainly damage families not only emotionally but also financially. Because of a poor decision making to drive intoxicated a child should not be left to struggle financially as they move forward in life without having a parent or guardian there to provide for them.

I also believe HB 1558 will help in the way of deterrence to those who tend to drive intoxicated. There are no excuses in my opinion for someone to drive intoxicated when we have several safe ride options such as taxi's, Uber, and ride sharing options. This law will hopefully look to promote good decision making when it comes to drinking and driving.

I urge the Senate Judiciary Committee to recommend a do pass on HB 1558. Thank you for your time and consideration.

Respectfully,

Jesse Jahner
Cass County Sheriff

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

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.

March 25, 2025
Senate Judiciary Committee
HB 1558
Senator Diane Larson, Chair

For the record, I am Stephanie Dassinger Engebretson. I am submitting this testimony on behalf of the Chiefs of Police Association of North Dakota in support of HB 1558. I am also the deputy director and attorney for the North Dakota League of Cities.

HB 1558 creates a remedy to try to make sure a child is financially supported when his or her parent is killed by an impaired driver. According to the North Dakota Crash Summary, published in 2023, 191 people have died in alcohol-related car crashes in the last 5 years in North Dakota. The Summary also provides that one alcohol-related crash occurs every 13 hours and that every 10 days an alcohol-related vehicle fatality occurs in North Dakota.

Law enforcement deals with alcohol-related driving offenses way too often and unfortunately, sometimes, those incidents involve car crashes and deaths. HB 1558 would create a remedy within the criminal court proceeding for a child victim to get financial support from the individual who killed his or her parent(s).

HB 1558 is a good bill that protects children whose parents are killed by impaired drivers. The Chiefs of Police Association of North Dakota respectfully requests a Do Pass recommendation on HB 1558.

My name is **Nicole Louthain**, and I am from **Grand Forks Air Force Base**. For those who know my story, you may be asking—why am I advocating for this? *My daughter, 6 year old Katarina Louthain*, had both her parents. But I no longer have my child.

The reason I am here is because I know an extraordinary grief that most people could never fathom. I was on my way home from my daughter's drum lessons on a clear, sunny Monday—June 3rd, 2024. It was 6:30 p.m. when I stopped at a red light. A second after it turned green... my world shattered. A drunk, distracted driver smashed into us at an astronomically insulting speed—well over the 55 mph limit.

In that instant, my daughter's neck snapped. There was no trunk. No back seat. There wasn't even much of a front seat left. My brain was so bloody and shifted that no one knows how I am still walking, talking, or even alive. But I am. And I was trapped... trapped in a crumpled car while my only child died right next to me. I screamed. I fought to get to her. But I couldn't.

I don't know what it's like to lose my parents due to someone's selfish choices... but I know what it's like to lose my child. I know what it's like to witness her life stolen, to feel her presence ripped away, and to be left with nothing but haunting memories of her giggle, her love, and her future—gone.

In situations like mine, when the roles are reversed, I can only imagine a fraction of that child's pain. And that pain far outweighs the grief of a parent. A child, who loses their parents, loses the safety, stability, and love that carries them through life. A child cannot clothe themselves. A child cannot feed themselves. A child is not equipped to face the harshness of this world alone. They are merely at the mercy of a broken system that fails them over and over again.

When I was offered an insurance settlement of \$200,000, I was disgusted. That amount doesn't even begin to scrape the surface of the hundreds of thousands of dollars of medical bills—some of which are sitting in collections. But what if this had been a child left behind by a parent taken too soon? That settlement wouldn't have been enough to sustain them through childhood, let alone into adulthood. Money won't bring their parents back. But it can ensure they have a chance—a chance to survive, to grow, to thrive despite the unimaginable loss.

We are approaching a year since my daughter was killed. We have video evidence—without a shadow of a doubt—that a crime was committed and I couldn't have stopped it. And yet, her murderer walks free. I have been told, time and time again, to prepare for the worst. The worst being little to no accountability. If this is how exhausting, degrading, and painful I have to fight for justice for my child, I cannot even begin to imagine what an innocent, defenseless child would endure in the aftermath of losing their parent to someone's reckless, irreversible decisions.

I am begging you. I am pleading with you. Please, hold those who make these selfish, reckless choices accountable. Protect our children. When a parent is taken, make sure their murderer is forced to compensate the child they left behind—so they still have a chance at a future. A chance to be educated, to grow, to do better, and to not fall victim to a world that preys on vulnerable children without the protection of loving parents who would have given anything to watch them grow.

Do not let these children suffer twice—once by losing their parent and again by being abandoned by a system that refuses to fight for them. Please... I am begging you. Protect them. Hold these murderers accountable. Our children's futures depend on it.



North Dakota Association for Justice
PO Box 365
Mandan, ND 58554
The Trial Lawyers of North Dakota

Jaclyn Hall, Executive Director
jaclyn@ndaj.org

Madam Chair Larson and members of the Senate Judiciary Committee. My name is Jaci Hall, Executive Director of the North Dakota Association for Justice. NDAJ did not take a position on HB1588 in the House, but a concern has come up that we would like addressed in this proposed legislation.

HB1558 provides for restitution in a vehicular homicide case for minor children if a parent is killed.

This legislation has gone through many revisions, but today I ask for one more.

Notwithstanding any other provision of law, if the court orders an individual loss restitution payments under this section and the surviving parent or guardian subsequently obtains a civil judgement resulting from the criminal vehicular homicide incident, the court may not consider the parental loss restitution amount in determining the amount to be awarded in the civil judgement.

The concern is that when criminal restitution is awarded, the commencing civil judgement could be reduced by the amount awarded. This amendment would not impact the criminal judgment, because the judgement awarded is not admissible in civil proceedings. The civil proceedings do not begin until after the criminal trial, so this amendment would ensure the child receives all the judgement.

Thank you and I will stand for questions.

**BURKE COUNTY STATES ATTORNEY'S OFFICE****AMBER J. FIESEL, STATE'S ATTORNEY**PO Box 190
Bowbells, ND 58721

Phone (701) 377-4358

amfiesel@nd.gov

DATE: March 25, 2025

TO: Senate Judicial Committee

RE: House Bill 1558
Letter in Opposition

Chair Larson and Members of the Senate Judiciary Committee:

I am writing in opposition to House Bill 1558. As a prosecutor for over 15 years, I have prosecuted many cases involving both parent victims as well as child victims of many crimes. This bill would place a specific subset of victims above other victims of crimes and would turn prosecutor's offices into civil personal injury attorneys which would increase costs tremendously. I will address each of these issues separately.

First, this would make prosecutors into civil personal injury attorneys. The relevant factors listed in the bill are not items that a prosecutor would readily know without obtaining, at county expense, an expert opinion as to the amounts of restitution. As a prosecutor I have no specialized knowledge of the financial needs and resources of the child, the financial needs and resources of the surviving parent, the standard of living, etc. Therefore, in order to enforce this restitution, I would need to hire outside experts to determine the correct amount of the restitution sought or I would have to bring experts in to support the victim's amount of requested restitution. As prosecutors we are responsible for proving restitution requested to the court. This is done at a restitution hearing. At the hearing, prosecutor presents evidence to support the amount of restitution sought. In order to do this in this case, I would need to bring in experts to support the amounts. This expert testimony and expert fees would be solely at the cost to the county. Additionally, the bill provides for the deduction of the civil damages or insurance payouts. In most cases, the civil cases are not decided until after the criminal case – because the civil standard (preponderance of the evidence) is lower than the standard in a criminal case (beyond a reasonable



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doubt). So if a person is convicted in criminal court, generally, they are held liable in a civil case where damages are provided. Because the criminal case is concluded first, if this bill is passed there likely won't be a civil award and all the damages will be requested in the criminal case. This is not the function of the criminal courts and will lead to more trials, more expert witnesses, and significant added costs to the counties. This all leads to a large increase in costs to the counties that are prosecuting these cases. Many of these counties are like mine with a single part-time prosecutor with a part-time secretary. A case like this could put my office way, way over budget just with one case.

I also want to point out an issue with Subsection 7 of Section 3 (Page 2 lines 30-31 and Page 3 line 1-4). My office, like many offices, does not handle any of the restitution monies that come into the county. All payments are handled by the clerk of court's office. I do not have a bank account or any access to one. Therefore, this bill is unworkable for my office and would force our offices to create these accounts just in case we would have one of these crimes.

Second, this bill creates a new type of restitution available only for parents who are victims of vehicular homicide. The restitution statute that governs our restitution for all crimes is located in NDCC § 12.1-32-08, which states "The court, when sentencing a person adjudged guilty of criminal activities that have resulted in pecuniary damages, in addition to any other sentence the court may impose, shall order that the defendant make restitution to the victim or other recipient as determined by the court." Subsection 4 of 12.1-32-08 states "In determining the amount of restitution, the court shall take into account the reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses actually sustained as a direct result of the defendant's criminal action. This can include an amount equal to the cost of necessary and related professional services and devices relating to physical, psychiatric, and psychological care." The statute currently allows restitution



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for items *directly* related to the criminal offense. This change in the law would treat a victim who is a parent differently if that person was murdered versus if they were killed by vehicular homicide. This does not make sense.

Anytime there is a victim of a crime it is a terrible crime. As a prosecutor I fight every day to get justice and restitution for these victims. However, this bill separates out a subset of victims and would cause an additional significant financial burden on the counties. Therefore, I urge a do not pass on House Bill 1558.

Please feel free to contact me if you should have any questions. Thank you.

Sincerely,

Amber J. Fiesel
Burke County State's Attorney

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.

Good morning, Madam Chair Larson and members of the Senate Judiciary Committee.

My name is Austen Schauer, representing District 13 in West Fargo.

On July 6, 2012, Aaron Deutscher, his wife Allison (who was three and a half months pregnant), along with their 18-month-old daughter Brielle packed their vehicle in West Fargo for a family reunion in Bismarck.

The Deutschers never arrived. They were killed by a drunk driver. Unfortunately, this tragedy is not uncommon.

Over the last five years, there have been 172 fatal crashes in North Dakota killing 191 people and injuring nearly two thousand others. 35% of those fatalities involved alcohol abuse.

House Bill 1558 is **not** intended to solve the drunk driving problem in North Dakota, but it is intended to **help children** who lose a parent in a fatal accident when the driver is found guilty of **criminal vehicular homicide**.

HB 1558 gives judges the authority to order **child restitution payments** when the person killed in the crash was a parent or guardian of a minor child.

Let me walk you through the **amended** version (5001) of **HB 1558**.

This amended version came after **HB 1558** was passed. It is the result of discussions with Cass County District Judge Reid Brady, State Constitutional expert Travis Fink, the State's Attorneys' Association representative Jonathan Byers, the executive director of the ND Association for Justice, Jaci Hall and Legislative Council.

Sections 1 and 2 place the parental loss restitution under the probation code of State law.

Section 3, page 2, lines 1-3 is the essence of the bill. ***"When sentencing a person found guilty of criminal vehicular homicide, the court may order parental loss restitution."***

Section 4, page 2, has several sub-sections:

Subsection one gives the definition of "incarcerated."

Subsection two says once the offender is found guilty of criminal vehicular homicide, the court "may" order restitution for a child to be received until he/she reaches 18 years old.

Subsection three says restitution may be ordered at the time of sentencing or within 60 days.

Subsection four says the surviving parent or legal guardian seeking restitution may submit a claim affidavit to the prosecutor at least ten days before a hearing on restitution.

Subsection five outlines the factors to determine parental loss restitution. There are seven factors to be used by the court.

Read bill

***One of the issues that came up in working on this bill was how the States Attorney would gather this information.

We believe it could function much like existing restitution where the SA sends a form to the victim's family to complete and supplement with any additional documents and return it.

The SA then provides the completed form and any supplemental information to the defense and, ultimately, the court.

In similar fashion, a parental loss restitution form could set out each of the statutory factors and invite the victim's insights on each, as well as a monthly amount.

The parental loss restitution form and any supplemental information could then be returned to the SA, provided to defense and ultimately, the court.

Subsection six gives the court the ability to subtract a civil settlement amount from the total amount of restitution ordered.

Subsection seven sets the parameters for when the offender begins payments. Payments must be paid in full.

Subsection eight says the court may order a civil judgment for the amount docketed in the same manner as a civil judgment if the offender doesn't pay the restitution.

Subsection nine says the only exception to modifying a restitution order is found in subsection 6 dealing with a civil settlement.

By establishing clear guidelines for calculating child restitution, **HB 1558** provides consistency and fairness to ensure children who have lost mom, or dad receive adequate financial support as determined by the judge.

Having an offender pay child restitution doesn't help the child overcome their tragic loss, but it will help the remaining parent or guardian raise the child.

Madam Chair, members of the Senate Judiciary Committee, we seek your support for **HB 1558**.

Thank you for your consideration and I stand open to questions.

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED HOUSE BILL NO. 1558

Introduced by

Representatives Schauer, D. Anderson, Ista, J. Johnson, Jonas, Richter, Beltz, Heinert,
Schreiber-Beck

Senators Clemens, Conley, Wanzek

1 A BILL for an Act to create and enact a new subdivision to subsection 4 of section 12.1-32-07, a
2 new subsection to section 12.1-32-08, and a new section to chapter 39-08 of the North Dakota
3 Century Code, relating to restitution for the child of a victim of criminal vehicular homicide and
4 conditions of probation; to amend and reenact subsection 5 of section 12.1-32-06.1 of the North
5 Dakota Century Code, relating to the extension of probation; to provide a penalty; and to
6 provide for application.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-32-06.1 of the North Dakota
9 Century Code is amended and reenacted as follows:
10 5. If the defendant has pled or been found guilty of abandonment or nonsupport of
11 spouse or children, the period of probation may be continued or of criminal vehicular
12 homicide in violation of section 39-08-01.2, the court may, in addition to an initial
13 period of probation, impose an additional period of unsupervised probation for as long
14 as responsibility for support continues.

15 **SECTION 2.** A new subdivision to subsection 4 of section 12.1-32-07 of the North Dakota
16 Century Code is created and enacted as follows:

17 Pay parental loss restitution. When parental loss restitution is a condition of
18 probation, the court shall proceed as provided in chapter 39-08.

19 **SECTION 3.** A new subsection to section 12.1-32-08 of the North Dakota Century Code is
20 created and enacted as follows:

1 When sentencing a person adjudged guilty of criminal vehicular homicide in violation
2 of section 39-08-01.2, the court may order, in accordance with the provisions of
3 section 3 of this Act, parental loss restitution.

4 **SECTION 4.** A new section to chapter 39-08 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Parental loss restitution payments for criminal vehicular homicide.**

- 7 1. As used in this section, "incarcerated" means confined or imprisoned in a jail, prison,
8 penitentiary, juvenile facility, or other correctional institution or facility, or a place or
9 condition of confinement or forcible restraint regardless of the nature of the institution
10 in which the individual serves a sentence for a conviction.
- 11 2. If an individual pleads guilty or nolo contendere to, or is found guilty of criminal
12 vehicular homicide under section 39-08-01.2 and the deceased victim of the offense
13 was the parent or legal guardian of a minor child, the court may order the individual to
14 pay restitution monthly to each of the victim's children until each child reaches
15 eighteen years of age.
- 16 3. The court may order the parental loss restitution at the time of sentencing or within
17 sixty days of sentencing, unless that period is extended for good cause. A hearing
18 must be held at the time of sentencing or another time, unless the individual waives
19 the right to a hearing.
- 20 4. The surviving parent or legal guardian of the victim's children may make a claim for
21 parental loss restitution and may submit information by a claim affidavit and, as
22 applicable, supporting information. The prosecutor shall ~~not~~ serve the individual of
23 the recommended amount of parental loss restitution with a copy of the claim affidavit
24 and supporting information at least ten days before the hearing under subsection 3,
25 unless the individual waives the right to service.
- 26 5. The court may consider claim affidavit may include all relevant factors in determining a
27 parental loss restitution amount that is reasonable and necessary for the maintenance
28 of each child, including:
- 29 a. The financial needs and resources of the child;
- 30 b. The financial needs and resources of the surviving parent; or, if no other parent is
31 alive or capable of caring for the child, the legal guardian of the child;

- 1 c. The standard of living to which the child is accustomed;
- 2 d. The physical and emotional condition of the child and the child's educational
- 3 needs;
- 4 e. The child's physical and legal custody arrangements;
- 5 f. The reasonable work-related child care expenses of the surviving parent or legal
- 6 guardian; and
- 7 g. Any monetary or insurance settlement, amount, damages, or award received or
- 8 anticipated arising from the criminal vehicular homicide incident.
- 9 6. In an initial order for parental loss restitution, or in an amendment to a parental loss
- 10 restitution order, the court may subtract from the total amount of parental loss
- 11 restitution ordered under subsection 5, any monetary or insurance settlement, amount,
- 12 damages, or civil award received by the child's surviving parent or legal guardian
- 13 arising from the criminal vehicular homicide incident.
- 14 7. The court may order the parental loss restitution payments be made to the clerk of
- 15 court as trustee for remittance to the state's attorney's office. The clerk shall remit the
- 16 payments to the state's attorney's office within ten working days of receipt by the clerk.
- 17 The state's attorney's office shall deposit all payments no later than the next business
- 18 day after receipt. The state's attorney's office shall remit payments to the surviving
- 19 parent or legal guardian within ten working days.
- 20 ~~8.~~ If the individual ordered to pay parental loss restitution under this section is
- 21 incarcerated and unable to pay the required amount, the individual shall begin
- 22 payment, including entering a payment plan to address any arrearage, within one year
- 23 from the date of the individual's release from incarceration. If the individual's parental
- 24 loss restitution payments are set to terminate but the individual's obligation is not paid
- 25 in full, the parental loss restitution payments continue until the arrearage is paid in full.
- 26 9.8. Upon motion of the prosecutor supported by evidence establishing the amount of
- 27 unpaid accrued parental loss restitution ordered by the court, the court may order a
- 28 civil judgment for the amount be docketed in the same manner as a civil judgment
- 29 under section 29-26-22.1. The motion must be served on the surviving parent or legal
- 30 guardian at the last known address of the parent or guardian and on the individual
- 31 subject to the parental loss restitution order.

1 | ~~10.9.~~ Except as provided under subsection 6, an order for parental loss restitution may not
2 be modified.

3 **SECTION 5. APPLICATION.** This Act applies to a criminal charge for criminal vehicular
4 homicide filed on or after the effective date of this Act.

1 —
2 10.9. Notwithstanding any other provision of law, if the court orders an individual to a make parental
3 loss restitution payments under this section and the surviving parent or guardian subsequently
4 obtains a civil judgement resulting from the criminal vehicular homicide incident, the court may ^{125 JULY}
not consider the parenatal loss restitution amount in determining the amount to be awarded in
the civil judgement.

10. Except as provided under subsection 6, an order for parental loss restitution may not be



SECTION 5. APPLICATION. This Act applies to a criminal charge for criminal
vehicular homicide filed on or after the effective date of this Act.

- 1 c. The standard of living to which the child is accustomed;
2 d. The physical and emotional condition of the child and the child's educational
3 needs;
4 e. The child's physical and legal custody arrangements;
5 f. The reasonable work-related child care expenses of the surviving parent or legal
6 guardian; and
7 g. Any monetary or insurance settlement, amount, damages, or award received or
8 anticipated arising from the criminal vehicular homicide incident.
9 6. In an initial order for parental loss restitution, or in an amendment to a parental loss
10 restitution order, the court may subtract from the total amount of parental loss
11 restitution ordered under subsection 5, any monetary or insurance settlement, amount,
12 damages, or civil award received by the child's surviving parent or legal guardian
13 arising from the criminal vehicular homicide incident.
14 7. ~~The court may order the parental loss restitution payments be made to the clerk of~~
15 ~~court as trustee for remittance to the state's attorney's office. The clerk shall remit the~~
16 ~~payments to the state's attorney's office within ten working days of receipt by the clerk.~~
17 ~~The state's attorney's office shall deposit all payments no later than the next business~~
18 ~~day after receipt. The state's attorney's office shall remit payments to the surviving~~
19 ~~parent or legal guardian within ten working days.~~
20 ~~8.~~ If the individual ordered to pay parental loss restitution under this section is
21 incarcerated and unable to pay the required amount, the individual shall begin
22 payment, including entering a payment plan to address any arrearage, within one year
23 from the date of the individual's release from incarceration. If the individual's parental
24 loss restitution payments are set to terminate but the individual's obligation is not paid
25 in full, the parental loss restitution payments continue until the arrearage is paid in full.
26 9.8. Upon motion of the prosecutor supported by evidence establishing the amount of
27 unpaid accrued parental loss restitution ordered by the court, the court may order a
28 civil judgment for the amount be docketed in the same manner as a civil judgment
29 under section 29-26-22.1. The motion must be served on the surviving parent or legal
30 guardian at the last known address of the parent or guardian and on the individual
31 subject to the parental loss restitution order.

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

HB 1558
3/26/2025

Relating to restitution for the child of a victim of criminal vehicular homicide and conditions of probation; to provide a penalty; and to provide for application.

9:45 a.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Parental loss restitution
- Civil judgment considerations

9:45 a.m. Senator Paulson introduced proposed amendment LC# 25.0072.05002 and submitted testimony #44169.

9:48 a.m. Chair Larson recessed the hearing.

9:49 a.m. Chair Larson reconvened the hearing.

9:50 a.m. Senator Paulson moved amendment LC# 25.0072.05002.

9:51 a.m. Senator Castaneda seconded.

9:51 a.m. Voice Vote - Motion Passed.

9:53 a.m. Jonathan Byers, Lobbyist, ND State Attorney's Association, answered committee questions.

9:57 a.m. Senator Luick moved a Do Not Pass as amended.

9:57 a.m. Senator Myrdal seconded the motion.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	Y
Senator Jose L. Castaneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion Passed 7-0-0.

9:58 a.m. Senator Myrdal will carry the bill.

9:59 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

LO
3/26/25
10fy

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED HOUSE BILL NO. 1558

Introduced by

Representatives Schauer, D. Anderson, Ista, J. Johnson, Jonas, Richter, Beltz, Heinert,
Schreiber-Beck

Senators Clemens, Conley, Wanzek

1 A BILL for an Act to create and enact a new subdivision to subsection 4 of section 12.1-32-07, a
2 new subsection to section 12.1-32-08, and a new section to chapter 39-08 of the North Dakota
3 Century Code, relating to restitution for the child of a victim of criminal vehicular homicide and
4 conditions of probation; to amend and reenact subsection 5 of section 12.1-32-06.1 of the North
5 Dakota Century Code, relating to the extension of probation; to provide a penalty; and to
6 provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 **SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-32-06.1 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 5. If the defendant has pled or been found guilty of abandonment or nonsupport of
11 spouse or children, ~~the period of probation may be continued~~ or of criminal vehicular
12 homicide in violation of section 39-08-01.2, the court may, in addition to an initial
13 period of probation, impose an additional period of unsupervised probation for as long
14 as responsibility for support continues.

15 **SECTION 2.** A new subdivision to subsection 4 of section 12.1-32-07 of the North Dakota
16 Century Code is created and enacted as follows:

17 Pay parental loss restitution. When parental loss restitution is a condition of
18 probation, the court shall proceed as provided in chapter 39-08.

19 **SECTION 3.** A new subsection to section 12.1-32-08 of the North Dakota Century Code is
20 created and enacted as follows:

When sentencing a person adjudged guilty of criminal vehicular homicide in violation of section 39-08-01.2, the court may order, in accordance with the provisions of section 34 of this Act, parental loss restitution.

SECTION 4. A new section to chapter 39-08 of the North Dakota Century Code is created and enacted as follows:

Parental loss restitution payments for criminal vehicular homicide.

1. As used in this section, "incarcerated" means confined or imprisoned in a jail, prison, penitentiary, juvenile facility, or other correctional institution or facility, or a place or condition of confinement or forcible restraint regardless of the nature of the institution in which the individual serves a sentence for a conviction.
2. If an individual pleads guilty or nolo contendere to, or is found guilty of criminal vehicular homicide under section 39-08-01.2 and the deceased victim of the offense was the parent or legal guardian of a minor child, the court may order the individual to pay restitution monthly to each of the victim's children until each child reaches eighteen years of age.
3. The court may order the parental loss restitution at the time of sentencing or within sixty days of sentencing, unless that period is extended for good cause. A hearing must be held at the time of sentencing or another time, unless the individual waives the right to a hearing.
4. The surviving parent or legal guardian of the victim's children may make a claim for parental loss restitution and may submit information by a claim affidavit and, as applicable, supporting information. The prosecutor shall ~~not~~ serve the individual ~~of the recommended amount of parental loss restitution~~ with a copy of the claim affidavit and supporting information at least ten days before the hearing under subsection 3, unless the individual waives the right to service.
5. The ~~court may consider~~ claim affidavit may include all relevant factors in determining a parental loss restitution amount that is reasonable and necessary for the maintenance of each child, including:
 - a. The financial needs and resources of the child;
 - b. The financial needs and resources of the surviving parent, or, if no other parent is alive or capable of caring for the child, the legal guardian of the child;

- 1 c. The standard of living to which the child is accustomed;
2 d. The physical and emotional condition of the child and the child's educational
3 needs;
4 e. The child's physical and legal custody arrangements;
5 f. The reasonable work-related child care expenses of the surviving parent or legal
6 guardian; and
7 g. Any monetary or insurance settlement, amount, damages, or award received or
8 anticipated arising from the criminal vehicular homicide incident.
9 6. In an initial order for parental loss restitution, or in an amendment to a parental loss
10 restitution order, the court may subtract from the total amount of parental loss
11 restitution ordered under subsection 5, any monetary or insurance settlement, amount,
12 damages, or civil award received by the child's surviving parent or legal guardian
13 arising from the criminal vehicular homicide incident.
14 7. ~~The court may order the parental loss restitution payments be made to the clerk of~~
15 ~~court as trustee for remittance to the state's attorney's office. The clerk shall remit the~~
16 ~~payments to the state's attorney's office within ten working days of receipt by the clerk.~~
17 ~~The state's attorney's office shall deposit all payments no later than the next business~~
18 ~~day after receipt. The state's attorney's office shall remit payments to the surviving~~
19 ~~parent or legal guardian within ten working days.~~
20 ~~8.~~ If the individual ordered to pay parental loss restitution under this section is
21 incarcerated and unable to pay the required amount, the individual shall begin
22 payment, including entering a payment plan to address any arrearage, within one year
23 from the date of the individual's release from incarceration. If the individual's parental
24 loss restitution payments are set to terminate but the individual's obligation is not paid
25 in full, the parental loss restitution payments continue until the arrearage is paid in full.
26 9-8. Upon motion of the prosecutor supported by evidence establishing the amount of
27 unpaid accrued parental loss restitution ordered by the court, the court may order a
28 civil judgment for the amount be docketed in the same manner as a civil judgment
29 under section 29-26-22.1. The motion must be served on the surviving parent or legal
30 guardian at the last known address of the parent or guardian and on the individual
31 subject to the parental loss restitution order.

- 1 9. Notwithstanding any other provision of law, if a court orders an individual to make
2 parental loss restitution payments under this section and a surviving parent or
3 guardian subsequently obtains a civil judgment related to the same incident, a court or
4 jury may not consider the amount of parental loss restitution when determining the
5 amount awarded in the civil judgment.
- 6 10. Except as provided under subsection 6, an order for parental loss restitution may not
7 be modified.

8 **SECTION 5. APPLICATION.** This Act applies to a criminal charge for criminal vehicular
9 homicide filed on or after the effective date of this Act.

**REPORT OF STANDING COMMITTEE
ENGROSSED HB 1558**

Judiciary Committee (Sen. Larson, Chairman) recommends **AMENDMENTS** ([25.0072.05002](#)) and when so amended, recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1558 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

25.0072.05002
Title.

Prepared by the Legislative Council
staff for Senator Paulson
March 25, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

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ENGROSSED HOUSE BILL NO. 1558

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- 20 4. The surviving parent or legal guardian of the victim's children may make a claim for
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22 applicable, supporting information. The prosecutor shall ~~notify~~serve the individual ~~of~~
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