



Rachel Babich
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Testimony in Support of House Bill 270
House Criminal Justice Committee
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Thank you Chairwoman Abrams and members of the committee for allowing me the opportunity to testify today in support of House Bill 270, the Sam Knisley Family Support Act, by Representative Tom Young to improve Ohio's impaired driving law. My name is Rachel Babich and I am the MADD Ohio Program Director.

Mothers Against Drunk Driving thanks Representative Young for for authoring this proposal.

Drunk driving remains deadly and is at a crises level in Ohio. Since 2019, according to the National Highway Traffic Safety Administration, drunk driving deaths have increased 30% resulting in 471 preventable deaths in 2021 in Ohio.

Ohio is not alone in historic increases in drunk driving deaths. Throughout the nation, drunk driving deaths are at a historic high. Lawmakers must do more.

Six states have laws similar to House Bill 270 including: Kentucky, Tennessee, Texas, South Dakota, Utah and Maine. Nationally, the effort around the Sam Knisley Family Support Act, is called Bentley's Law.

MADD supports House Bill 270 because it serves as another reminder to never drive impaired. MADD supports this proposal because it is a victory for victim rights. If a person makes the choice to drive substance-impaired and kills a parent or legal guardian, the impaired driver 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.

On questions relating to implementation of laws like House Bill 270. Here is what MADD learned in a short two and half years of advocacy in other states.

- 1) **On whether these restitution payments will be handled via the criminal or civil court process.** In the other states that enacted Bentley's Law, the cases

are handled in the civil court process. In doing so, HB 270 allows for judicial discretion.

- 2) **We received questions on when impaired drivers will start making restitution payments?** HB 270 allows offenders to start making restitution payments one year after they are released from incarceration.
- 3) **We receive questions that most offenders be released from jail after a child of the deceased victim turns 18.** Although there will be cases where this will occur, drunk drivers do not always receive lengthy sentences and when they do, offenders are released early.
- 4) **We receive questions on if impaired drivers in HB 270 related cases can afford to make restitution payments.** There will be instances where this is the case, but HB 270 provides another consequence for an impaired driver. 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. Under HB 270, additional restitution payments will be added to the list of payments if a case is filed by victim survivors raising children under 18.

If there are concerns on how HB 270 will be implemented, please let MADD know. MADD will graciously work through any concerns in order see this proposal become law, as we did in six states with this law.

Madam Chair and members of committee, thank you for allowing me to testify today on behalf of Mothers Against Drunk Driving. Enclosed is information on the implementation of laws like HB 270. We urge your support of HB 270 to make Ohio the seventh state with such a law. Thank you.



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Q and A on the Implementation of Bentley's Law

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.