

# Comment Report

HF 125

A bill for an act relating to restitution for the death of a person caused by a minor or a victim of human trafficking.(See HF 594.)

Subcommittee Members: Kaufmann-CH, Meyer, B., Stone

Date: 02/16/2023

Time: 08:00 AM

Location: House Lounge

**Name:** Angelica Jimenez

**Comment:** In favor of HF 125. Please see attached document.

## House Judiciary Subcommittee HF 125 Public Comment

The members of the Debt Free Justice Iowa Coalition submit the following comments in support of HF 125. Debt Free Justice Iowa is a statewide coalition of advocacy organizations, academic institutions, and law and public policy experts dedicated to eliminating the harmful and unjust fees and fines imposed on youth. We would like to thank the Subcommittee for its leadership in addressing these critical issues and strongly recommend passage of HF 125.

As Iowa code states, criminal cases that result in the death of another require the court to order a defendant to pay at least \$150,000 in restitution to the estate of the decedent—charges which can be in addition to pecuniary damages.<sup>1</sup> The defendant may face additional costs as Iowa state law allows for civil actions to be filed that arise out of the same event. Minors are automatically transferred into adult court for certain felony charges including forcible felonies, drug offenses, and weapon offenses. Those minors are subject to the same legal consequence as adults.

The case of Pieper Lewis raised important questions regarding the harsh treatment of minors and human trafficking survivors. Lewis was only 15 years old when she was kicked out her home, became homeless, was sexually exploited by multiple men, and eventually killed one of her rapists. Polk County District Court Judge David Porter ordered Lewis to pay \$150,000 in restitution in accordance with Iowa code. The current law is fundamentally unfair to anyone who is a victim of human trafficking as well as to minors.

A mandatory fee of a minimum of \$150,000 imposed on groups deserving of special protections, such as human trafficking survivors, is unjust. Policies for addressing human trafficking requires a response that aims to eliminate impunity of human traffickers and to ensure justice for human trafficking survivors<sup>2</sup>. The harms caused by the practice of human trafficking are pervasive and can be long-lasting without the proper support and interventions to help survivors heal from such significant trauma. Contributing factors such as poverty, unstable housing, a history of domestic violence, experience in the foster care or juvenile justice systems increase the risk of an individual who can become particularly vulnerable to human trafficking.

Such an excessive fine imposed on human trafficking survivors or individuals who were minors at the time of the offense, both of which Lewis identified as, undermines rehabilitation by plummeting them into deep debt before they have a chance to reenter their communities. The long-term emotional and financial harm will follow them for the rest of their lives, jeopardizing their chances of job prospects and stable housing that will allow them to become contributing members to society upon their release.

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<sup>1</sup> Iowa Code Ann. § 910.3B(1).

<sup>2</sup> United Nations, *Commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking*, November 2010, HR/PUB/10/2, available at: <https://www.refworld.org/docid/4d2eb7cf2.html> [accessed 15 February 2023].

Such a debt forced upon these groups who have little income is utterly excessive and grossly disproportionate<sup>3</sup>. The debt could force them into the underground or illegal economy to survive.

Furthermore, those who are owed the restitution will likely never be compensated. Studies have shown that emotional accountability does not necessarily mean monetary accountability. This creates more harm to those the law intended to make whole. It creates distrust in the legal system and hampers the ability to adequately address the harms caused. The entire process erases the possibility of mediation or interaction between defendant and those harmed to be restorative.

Iowa law allows unpaid restitution to be converted into civil judgments. These judgments subject young people and human trafficking survivors to debt that follows them throughout their lives and is improbable to ever leave them. This mandate is simply punitive and not restorative. When applied to minors, it is an impossibility for them to repay that significant a debt and is not aligned with the rehabilitative approach to treating human trafficking victims and minors<sup>4</sup>. Courts have long had that minors are constitutionally different from adults as it relates to punishment and sentencing. They have a heightened capacity for change, and applying this chapter of the Iowa code to minors will only eliminate the chance for compliance and increase the likelihood of recidivism<sup>5</sup>.

The Debt Free Justice Iowa Coalition recognizes that justice based on excessive fines and fees is not justice at all. They disproportionately punish youth from low-income communities, vulnerable groups like human trafficking survivors, and communities of color, who face worse outcomes and harsher consequences just because they cannot afford to pay. Therefore, we strongly urge the subcommittee to support HF 125. Thank you.

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<sup>4</sup> *Making Families Pay*, *supra* note 1, at 2; *Families Unlocking Futures: Solutions to the Crisis in Juvenile Justice* 28, Justice for Families (2012), [https://njjn.org/uploads/digital-library/Families\\_Unlocking\\_FuturesFULLNOEMBARGO.pdf](https://njjn.org/uploads/digital-library/Families_Unlocking_FuturesFULLNOEMBARGO.pdf) (finding that of youth involved with the juvenile justice system, more than 50% came from families earning less than \$25,000 per year).

<sup>5</sup> See U.S. Dep't of Justice, Office for Civil Rights, *Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on Levying Fines and Fees on Juveniles* 1 (2017), <https://ojp.gov/about/ocr/pdfs/AdvisoryJuvFinesFees.pdf>.