

SUBSTITUTE FOR
SENATE BILL NO. 852

A bill to amend 1985 PA 87, entitled
"Crime victim's rights act,"
by amending section 61 (MCL 780.811), as amended by 1996 PA 82.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 61. (1) As used in this article:
2 (a) "Serious misdemeanor" means 1 or more of the following:
3 (i) A violation of section 81 of the Michigan penal code,
4 ~~Act No. 328 of the Public Acts of 1931, being section 750.81 of~~
5 ~~the Michigan Compiled Laws 1931 PA 328, MCL 750.81, assault and~~
6 battery.
7 (ii) A violation of section 81a of ~~Act No. 328 of the~~
8 ~~Public Acts of 1931, being section 750.81a of the Michigan~~
9 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81A,
10 assault ~~+~~ WITH infliction of serious injury.

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1 (iii) A violation of section 115 of ~~Act No. 328 of the~~
2 ~~Public Acts of 1931, being section 750.115 of the Michigan~~
3 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.115,
4 breaking and entering or illegal entry.

5 (iv) A violation of section 136b(5) of ~~Act No. 328 of the~~
6 ~~Public Acts of 1931, being section 750.136b of the Michigan~~
7 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
8 750.136B, child abuse in the fourth degree.

9 (v) A violation of section 145a of ~~Act No. 328 of the~~
10 ~~Public Acts of 1931, being section 750.145a of the Michigan~~
11 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
12 750.145A, enticing a child for immoral purposes.

13 (vi) A violation of section 234 of ~~Act No. 328 of the~~
14 ~~Public Acts of 1931, being section 750.234 of the Michigan~~
15 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.234,
16 discharge of a firearm intentionally aimed at a person.

17 (vii) A violation of section 235 of ~~Act No. 328 of the~~
18 ~~Public Acts of 1931, being section 750.235 of the Michigan~~
19 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.235,
20 discharge of an intentionally aimed firearm resulting in injury.

21 (viii) A violation of section 335a of ~~Act No. 328 of the~~
22 ~~Public Acts of 1931, being section 750.335a of the Michigan~~
23 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
24 750.335A, indecent exposure.

25 (ix) A violation of section 617a of the Michigan vehicle
26 code, ~~Act No. 300 of the Public Acts of 1949, being section~~

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1 ~~257.617a of the Michigan Compiled Laws~~ 1949 PA 300, MCL

2 257.617A, leaving the scene of a personal injury accident.

3 (x) A violation of section 625 of ~~Act No. 300 of the Public~~

4 ~~Acts of 1949, being section 257.625 of the Michigan Compiled~~

5 ~~Laws~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.625, oper-

6 ating a vehicle while under the influence of or impaired by

7 intoxicating liquor, ~~or~~ a controlled substance, A CHEMICAL

8 AGENT, OR ANY COMBINATION OF INTOXICATING LIQUOR, A CONTROLLED

9 SUBSTANCE, OR A CHEMICAL AGENT or with an unlawful blood alcohol

10 content, if the violation involves an accident resulting in

11 damage to another individual's property or physical injury or

12 death to another individual.

13 (xi) Selling or furnishing alcoholic liquor to an individual

14 less than 21 years of age in violation of section 33 of the

15 Michigan liquor control act, ~~Act No. 8 of the Extra Session of~~

16 ~~the Public Acts of 1933, being section 436.33 of the Michigan~~

17 ~~Compiled Laws~~ 1933 (EX SESS) PA 8, MCL 436.33, if the violation

18 results in physical injury or death to any individual.

19 (xii) A violation of section 411h of ~~Act No. 328 of the~~

20 ~~Public Acts of 1931, being section 750.411h of the Michigan~~

21 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL

22 750.411H, stalking.

23 (xiii) A violation of section 80176 of ~~part 801 (marine~~

24 ~~safety)~~ of the natural resources and environmental protection

25 act, ~~Act No. 451 of the Public Acts of 1994, being section~~

26 ~~324.80176 of the Michigan Compiled Laws~~ 1994 PA 451, MCL

27 324.80176, operating a vessel while under the influence of or

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1 impaired by intoxicating liquor or a controlled substance ~~—~~ or
2 with an unlawful blood alcohol content, if the violation involves
3 an accident resulting in damage to another individual's property
4 or physical injury or death to any individual.

5 (xiv) A violation of a local ordinance substantially corre-
6 sponding to a violation enumerated in subparagraphs (i) to
7 (xiii).

8 (xv) A violation charged as a crime or serious misdemeanor
9 but subsequently reduced to or pleaded to as a misdemeanor. As
10 used in this subparagraph, "crime" means that term as defined in
11 section 2.

12 (b) "Defendant" means a person charged with or convicted of
13 having committed a serious misdemeanor against a victim.

14 (c) "Final disposition" means the ultimate termination of
15 the criminal prosecution of a defendant including, but not
16 limited to, dismissal, acquittal, or imposition of a sentence by
17 the court.

18 (d) "Person" means an individual, organization, partnership,
19 corporation, or governmental entity.

20 (e) "Prisoner" means a person who has been convicted and
21 sentenced to imprisonment for having committed a serious misde-
22 meanor against a victim.

23 (f) "Prosecuting attorney" means the prosecuting attorney
24 for a county, an assistant prosecuting attorney for a county, the
25 attorney general, the deputy attorney general, an assistant
26 attorney general, a special prosecuting attorney, or, in
27 connection with the prosecution of an ordinance violation, an

1 attorney for the political subdivision that enacted the ordinance
2 upon which the violation is based.

3 (g) ~~"Victim", except~~ EXCEPT as otherwise defined in this
4 article, "VICTIM" means any of the following:

5 (i) An individual who suffers direct or threatened physical,
6 financial, or emotional harm as a result of the commission of a
7 serious misdemeanor, except as provided in subparagraph (ii),
8 (iii), or (iv).

9 (ii) The following individuals other than the defendant if
10 the victim is deceased:

11 (A) The spouse of the deceased victim.

12 (B) A child of the deceased victim if the child is 18 years
13 of age or older and sub-subparagraph (A) does not apply.

14 (C) A parent of a deceased victim if sub-subparagraphs (A)
15 and (B) do not apply.

16 (D) The guardian or custodian of a child of a deceased
17 victim if the child is less than 18 years of age and
18 sub-subparagraphs (A) to (C) do not apply.

19 (E) A sibling of the deceased victim if sub-subparagraphs
20 (A) to (D) do not apply.

21 (F) A grandparent of the deceased victim if
22 sub-subparagraphs (A) to (E) do not apply.

23 (iii) A parent, guardian, or custodian of a victim who is
24 less than 18 years of age if the parent, guardian, or custodian
25 so chooses.

1 (iv) A parent, guardian, or custodian of a victim who is so
2 mentally incapacitated that he or she cannot meaningfully
3 understand or participate in the legal process.

4 (2) If a victim as defined in subsection (1)(g)(i) is physi-
5 cally or emotionally unable to exercise the privileges and rights
6 under this article, the victim may designate his or her spouse,
7 ~~or a~~ child 18 years of age or older, parent, sibling, or grand-
8 parent ~~of the victim~~ to act in THE VICTIM'S place ~~of the~~
9 ~~victim~~ during the ~~duration of the~~ physical or emotional
10 disability. The victim shall provide the prosecuting attorney
11 with the name of the person who is to act in THE VICTIM'S place.
12 ~~of the victim.~~ During the physical or emotional disability,
13 notices to be provided under this article to the victim shall
14 continue to be sent only to the victim.

15 (3) An individual who is charged with a serious misdemeanor
16 or a crime as defined in section 2 arising out of the same trans-
17 action from which the charge against the defendant arose is not
18 eligible to exercise the privileges and rights established for
19 victims under this article.

20 Enacting section 1. This amendatory act takes effect May 1,
21 1998.

22 Enacting section 2. This amendatory act does not take
23 effect unless Senate Bill No. 853 of the 89th Legislature is
24 enacted into law.