

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1180 (as introduced 3-28-00)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

Date Completed: 4-5-00

CONTENT

The bill would amend the Crime Victim's Rights Act to do the following:

- Include additional information in the notices that must be given to crime victims before and after a defendant's trial or adjudication.
- Include references to criminal proceedings in provisions concerning juvenile offenders.
- Provide that information about a victim and visual representations of a victim would be exempt from disclosure.
- Provide that a victim could not be sequestered.
- Allow a victim to designate another person to make an oral impact statement.
- Expand the payments that an order of restitution may include, and allow a court to order three times the amount of restitution if a crime resulted in the death or serious impairment of a body function of a victim.
- Specify the allocation of payments if a person were subject to a combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments.
- Require appellate courts to give prosecuting attorneys advance notice of an order or opinion reversing a conviction, vacating a sentence, remanding a case, or denying a prosecutor's appeal.
- Prohibit a juvenile's case from being diverted or otherwise removed from the adjudicative process without the prosecutor's consent, and provide for a victim's rights before any formal or informal action was taken.

(Article I of the Act applies to "crime" victims, and defines "crime" as a violation of a penal law of this State for which the offender, upon conviction, may be punished by imprisonment for more than one year or an offense expressly designated by law as a felony. Article II applies to victims of juveniles who commit an "offense", and Article III applies to victims of a "serious misdemeanor". (The terms "offense" and "serious misdemeanor" are defined below in **BACKGROUND.**) A "victim" is an individual who

suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime, offense, or serious misdemeanor. Except as otherwise indicated in this summary, references below to a "victim" include a victim under Articles I, II, and III.)

The bill is tie-barred to three bills that have not been introduced at this time.

Definition of "Victim"

The Act's definitions of "victim" include a parent, guardian, or custodian of a victim who is less than 18 years old, if the parent, guardian, or custodian so chooses; and a parent, guardian, or custodian of a victim who is mentally or emotionally unable to participate in the legal process. The bill would refer to a victim who "is not the defendant and is not incarcerated".

In addition, if a victim has suffered direct or threatened physical, financial, or emotional harm as a result of a crime, and is physically or emotionally unable to exercise the privileges and rights under the Act, the victim may designate his or her spouse, child aged 18 or older, parent, sibling, or grandparent to act in the victim's place. The bill would allow a victim to designate one of these people or any other person 18 years of age or older who was not the defendant and was not incarcerated.

The bill specifies (in Articles I and II) that an individual who was charged with a crime or offense arising out of the same transaction from which the charge against the defendant arose would not be eligible to exercise the privileges and rights established for victims under the Act. In addition (in Articles I and III), the bill provides that an incarcerated individual would not be eligible to exercise the privileges and rights established for victims but could submit a written statement to the court.

Pretrial Notices to Victim

The Act requires various notices to be given to

victims at different stages of the proceedings. The first notice must be given within 24 hours after the initial contact between a victim and the investigating law enforcement agency. This notice must inform the victim about the availability of emergency and medical services, the availability of victim's compensation benefits, the address and telephone number of the prosecuting attorney whom the victim should contact for information about victim's rights, and a statement that the victim may call the law enforcement agency for the status of the case. The bill would require this notice also to state, "If you would like to be notified of an arrest in your case or the release of the person arrested, or both, you should call (identify law enforcement agency and telephone number) and inform them."

In addition, for victims of a serious misdemeanor, the bill provides that, if the case against the defendant were brought under a local ordinance, the law enforcement agency having responsibility for investigating the serious misdemeanor would have to give to the victim the name and business address of the local prosecuting attorney for the political subdivision responsible for prosecuting the case, along with the following statement: "The defendant in your case will be prosecuted under a local ordinance, rather than a state statute. Nonetheless, you have all the rights and privileges afforded to victims under the state constitution and the state crime victim's rights act."

Under the Act, the next notice must be given within 24 hours after the arraignment of the defendant for a crime, within 48 hours after the preliminary hearing of a juvenile offender, or within 72 hours after the arrest of the defendant for a serious misdemeanor. This notice must inform the victim that he or she may contact the sheriff or juvenile facility to determine whether the defendant has been released from custody. The bill also provides that the investigating law enforcement agency promptly would have to notify the victim of the arrest or pretrial release of the defendant, or both, if the victim requested that information. If the defendant were released from custody by the sheriff or juvenile facility, the sheriff or facility would have to notify the law enforcement agency.

The next notice must be given at least 24 hours before a preliminary examination (under Article I), within 72 hours after the prosecutor files a petition seeking to invoke the court's jurisdiction for an offense (under Article II), or within 48 hours after the prosecutor receives notice that a plea of guilty or no contest has or has not been accepted (under Article III). This notice must inform the victim of the procedural steps in processing the case, the rights and procedures under the Act, details and eligibility requirements for compensation from the Crime Victim's Services Commission, suggested procedures if the victim is subjected to threats or

intimidation, and whom to contact for further information. The bill would require this notice also to give a convenient means for the victim to notify the prosecuting attorney that the victim chose to exercise his or her rights under the Act.

Rights During Trial and Sentencing

Exemption from Disclosure. The bill states that, pursuant to Article I, Section 24 of the State Constitution, guaranteeing to crime victims the right to be treated with respect for their dignity and privacy, all of the following information and visual representations of a victim would be exempt from disclosure under the Freedom of Information Act:

- The victim's name, home address, home telephone number, work address, and work telephone number.
- A picture, photograph, drawing, or other visual representation, including any film, videotape, or digitally stored image, showing the victim's intimate parts, or showing sexual contact or sexual penetration involving the victim.

(The terms "intimate parts", "sexual contact", and "sexual penetration" would have the meanings given to them in Section 520a of the Michigan Penal Code.)

Sequestration. Currently, a victim has the right to be present throughout the defendant's entire trial, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until he or she testifies. The bill provides, instead, that a victim could not be sequestered and would have the right to be present throughout the defendant's entire trial and all other court proceedings that the defendant had the right to attend.

Impact Statement. The Act provides that a victim has the right to appear and make an oral impact statement at the sentencing or disposition of the defendant. Under the bill, if the victim were physically or emotionally unable to make the oral impact statement, he or she could designate any other person who was at least 18 years old and who was not the defendant and not serving a sentence, to make the statement on the victim's behalf. The other person would not have to be an attorney.

Notices to Victim after Trial

All Victims. Under the Act, upon the victim's request, the prosecutor must notify the victim that the defendant has filed an appeal of his or her conviction (or a juvenile has filed an appeal of his or her adjudication); whether the defendant has been ordered released on bail or other recognizance pending the disposition of the appeal; the time and

place of any appellate court proceedings; and the result of the appeal. Under the bill, this notice also would have to inform the victim that the defendant filed an appeal of his or her conviction or sentence (or a juvenile's disposition), or that the prosecuting attorney filed an appeal.

Currently, if the prosecuting attorney is notified that the conviction (or disposition) is reversed, or the case is remanded for further proceedings, he or she must use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecutor is notified. Under the bill, the prosecuting attorney would have to take this action if he or she were notified that the conviction was reversed, the sentence was vacated, the case was remanded for further proceedings or a new trial, or the prosecutor's appeal was denied.

The bill provides that, not later than 48 hours before releasing an opinion or order that reversed a conviction (or adjudication), vacated a sentence (or disposition), remanded a case to the trial court for further proceedings or a new trial, or denied a prosecuting attorney's appeal, the clerk of the appellate court would have to give the prosecutor a copy of that order or opinion.

Crime Victims under Article I. Upon the victim's request, the sheriff or the Department of Corrections (DOC) must mail to the victim certain notices about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff or the DOC for the crime against the victim. These include notice of the sheriff's calculation of the prisoner's earliest release date or the DOC's calculation of the prisoner's earliest parole eligibility date; notice of the prisoner's transfer or pending transfer to a minimum security facility and its address; and notice of the prisoner's release or pending release in a community residential program (CRP), under extended furlough, or any other transfer to community status. Under the bill, this notice would have to inform the victim of the prisoner's release or pending release in a CRP or under furlough; any other transfer to community status; any transfer from one CRP or electronic monitoring program (tether) to another; or any transfer from a CRP or tether program to a State correctional facility.

The bill also would require notice to the victim of his or her right to appeal the parole board's decision; notice that a prisoner had been charged with the commission of a new crime; and notice that a prisoner had been returned from parole status to a correctional facility due to an alleged violation of the conditions of his or her parole.

Victims under Article II. Upon a victim's request, the court or the Family Independence Agency (FIA) or county juvenile agency, as applicable, must make a good faith effort to notify the victim before the juvenile is dismissed from court jurisdiction or discharged from commitment to the FIA or county juvenile agency; before the juvenile is transferred from a secure juvenile facility to a nonsecure juvenile facility; or before the juvenile has his or her name legally changed while under the court's jurisdiction or within two years after discharge from the court's jurisdiction. Under the bill, the court, FIA, or county agency would have to make a good faith effort to notify the victim before the juvenile was transferred from one juvenile facility to another (not just from a secure facility to a nonsecure facility). The bill also would require notice before the juvenile was detained for having committed an act that, if committed by an adult, would be a criminal violation.

In addition, upon the victim's written request, the sheriff or the DOC would have to mail to the victim the following, as applicable, about a juvenile who had

been sentenced to imprisonment under the jurisdiction of the sheriff or the DOC for the offense against the victim:

- Within 30 days after the release, notice of the sheriff's calculation of the juvenile's earliest release date or the DOC's calculation of the juvenile's earliest parole eligibility date, with all potential good time or disciplinary credits considered, if the sentence of imprisonment exceeded 90 days. The victim could request one-time only notice of this calculation.
- Notice of the juvenile's transfer or pending transfer to a minimum security facility and its address.
- Notice of the juvenile's release or pending release in a CRP, under furlough, or any other transfer to community status; any transfer from one CRP or tether program to another; or any transfer from a CRP or tether program to a State correctional facility.
- Notice of the escape of the person accused, convicted, or imprisoned for committing an offense against the victim.
- Notice of the victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the juvenile's release on parole.
- Notice of the decision of the parole board, or any other panel having authority over the juvenile's release on parole, after a parole review.
- Notice of the release of a juvenile 90 days before the date of his or her discharge from prison, unless the notice had been otherwise provided.
- Notice of a public hearing regarding a reprieve, commutation, or pardon of the juvenile's sentence by the Governor.
- Notice that a reprieve, commutation, or pardon had been granted.
- Notice that a juvenile had had his or her name legally changed while on parole or within two years after release from parole.

(This notice requirement parallels an existing requirement under Article I, as it would be amended by the bill.)

The bill provides that a victim's address and telephone number maintained by a sheriff or the DOC upon a victim's request for the notice described above, would be exempt from disclosure under the Freedom of Information Act.

A victim who requested notice of an escape and the prosecuting attorney who filed the petition alleging the offense for which the juvenile was accused, detained, or under sentence would have to be given immediate notice of the juvenile's escape. The notice would have to be given by any means reasonably calculated to give prompt actual notice. If the escape occurred before the sentence was

executed or before the juvenile was delivered to the FIA, county juvenile agency, sheriff, or DOC, the person in charge of the agency in charge of the juvenile's detention would have to give notice of the escape to the prosecuting attorney, who then would have to notify a victim who requested notice. If the juvenile were confined under sentence, the notice would have to be given by the chief administrator of the place where the juvenile was detained.

Victim's under Article III. Upon the written request of a victim of a serious misdemeanor, the sheriff must mail to the victim certain notices about a prisoner who has been sentenced to imprisonment under the sheriff's jurisdiction for that serious misdemeanor. These include notice of the sheriff's calculation of the prisoner's earliest release date; and notice that the prisoner has had his or her name legally changed while imprisoned or within two years of release. The bill also would require notice that the prisoner had been placed on day parole or work release.

Restitution

Under the Act, when sentencing a defendant or at the dispositional hearing for a juvenile offense, the court must order the defendant to make full restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate. (The restitution must be ordered in addition to or instead of any other penalty or disposition authorized by law, or in addition to any other penalty required by law.)

If a crime or offense results in physical or psychological injury to a victim, an order of restitution may require the defendant to pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care; the cost of actual physical and occupational therapy and rehabilitation; and the cost of psychological and medical treatment for members of the victim's family that has been incurred as a result of the crime. Under the bill, the restitution order could require the payment of these costs "actually incurred and reasonably expected to be incurred".

In addition, if a crime or offense results in physical or psychological injury, the restitution order may require the defendant to reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the crime. Under the bill, if the victim were less than 18 or were claimed as a dependent by his or her parent or guardian on that person's Federal income tax return, the restitution order instead could require reimbursement of after-tax income loss suffered by the victim's parent or guardian as a result of the crime.

Also, in the case of physical or psychological injury, a restitution order may require the defendant to pay

an amount equal to the costs of actual homemaking and child care expenses incurred as a result of the crime. Under the bill, a restitution order could require the payment of an amount equal to the costs of homemaking and child care expenses actually incurred and reasonably expected to be incurred as a result of the crime or, if homemaking or child care were provided without compensation by a relative, friend, or any other person, an amount equal to the costs that would reasonably be incurred as a result of the crime for that homemaking and child care, based on the rates in the area for comparable services.

Further, if a deceased victim could be claimed as a dependent by his or her parent or guardian on that person's Federal, State, or local income tax return, the reimbursement order could require the defendant to pay an amount equal to the loss of the tax deduction. The amount of reimbursement would have to be estimated for each year the victim could reasonably be claimed as a dependent.

In addition, if a crime resulting in bodily harm also resulted in the death of a victim or serious impairment of a body function of a victim, the court could order up to three times the amount of restitution otherwise allowed. "Serious impairment of a body function of a victim" would include, but not be limited, to one or more of the following:

- Loss of a limb or use of a limb.
- Loss of a hand or foot or use of a hand or foot.
- Loss of an eye or ear or use of an eye or ear.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state lasting more than three days.
- Measurable brain damage or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.
- Loss of a body organ.

Under the Act, the court must order restitution to the Crime Victim Services Commission or to any individuals or entities that have compensated the victim or the victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The court also must order restitution for the costs of services provided to persons or entities that have provided services to the victim as a result of the crime. The bill would delete a provision that, if an entity entitled to restitution for compensating a victim or victim's estate cannot or refuses to be reimbursed for that compensation, the restitution paid for that entity must be deposited in the Crime Victim's Rights Fund or its successor fund.

Under the bill, if a person or entity entitled to restitution could not be located or refused to claim that restitution within two years after the date on which the person or entity could have claimed the

restitution, the restitution would have to be deposited in the Crime Victim's Rights Fund or its successor fund. A person or entity entitled to that reimbursement, however, could claim the restitution at any time by applying to the Crime Victim Services Commission in the manner provided by law.

Under the Act, a defendant who is required to pay restitution and who is not in willful default of the payment may petition the sentencing judge or his or her successor to modify the method of payment. The court may do so if it determines that payment under the restitution order will impose a manifest hardship on the defendant or his or her immediate family. Under the bill, the court also would have to determine that modifying the method of payment would not impose a manifest hardship on the victim.

The Act provides that an order of restitution may be enforced by the prosecuting attorney, a victim, a victim's estate, or any other person or entity named in the order, in the same manner as a judgment in a civil action or a lien. Under the bill, a restitution order also could be enforced upon the court's own motion.

Currently, in each case in which restitution is ordered as a condition of probation, the probation officer or juvenile caseworker assigned to the case must review it at least twice yearly to ensure that restitution is being paid as ordered. The bill provides that, in each case in which restitution was ordered as a condition of probation, the court would have to order any employed defendant or juvenile to execute a wage assignment to pay the restitution. If the defendant or juvenile were not currently employed, but became employed during the period of probation, the probation officer or caseworker would have to ensure that the defendant or juvenile executed a wage assignment. As currently provided, the officer or caseworker would have to review the case at least twice a year. If the restitution were ordered to be made immediately, the probation officer or caseworker would have to review the case at least three months after the restitution had been ordered to determine if it had been paid in full.

Under the Act, if the probation officer or caseworker determines that restitution is not being paid as ordered, he or she must file with the court a written report of the violation, and give a copy to the prosecuting attorney. If a motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been paid as ordered, the court must promptly take action necessary to compel compliance. The bill would delete the requirement that a motion be filed or other proceedings initiated. The bill would require the court to conduct a hearing upon receiving the officer's or caseworker's report and, upon determining that restitution was not being paid or had not been paid as ordered, promptly take action necessary to compel compliance.

The bill provides that the court could not impose a fee on a victim, victim's estate, or prosecuting attorney for enforcing an order of restitution.

Restitution by Parent

The bill would amend Article I to add language regarding payment of restitution by a juvenile's parent, as currently provided in Article II.

Under Article II, if the court determines that the juvenile is or will be unable to pay all of the restitution ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard, the court may order the parent or parents having supervisory responsibility for the juvenile at the time of the acts upon which an order of restitution is based, to pay any portion of the restitution that is outstanding. The order does not relieve the juvenile of his or her obligation to pay restitution as ordered, but the amount owed by the juvenile must be offset by any amount paid by his or her parent.

If the court orders a parent to pay restitution, the court must take into account his or her financial resources and the burden that the payment will impose, with due regard to any other moral or legal financial obligation the parent may have. If the parent is required to pay restitution, the court must provide for payment to be made in specified installments and within a specified period of time.

A parent who has been ordered to pay restitution may petition the court for a modification of the amount owed or for a cancellation of any unpaid portion. The court must cancel all or part of the parent's obligation if the court determines that payment of the amount would impose a manifest hardship on the parent. Under the bill, the court also would have to determine that modifying the method of payment would not impose a manifest hardship on the victim.

In Article I, the bill would define "juvenile" as a person within the court's jurisdiction under Section 2d or 4 of the juvenile code. (Section 2d applies to juveniles accused of a "designated offense" (described below). Section 4 applies to juveniles over whom the family court has waived jurisdiction to the court having general criminal jurisdiction of the offense.)

Allocation of Payments

Under the bill, if a person were subject to any combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, etc. would have to be allocated as described below.

Except as otherwise provided, if a person were subject to payment of victim payments and any combination of other fines, costs, assessments, probation or parole supervision fees, or other payments, 50% of each payment collected by the

court from that person would have to be applied to victim payments, and the balance would have to be applied to the payment of fines, costs, supervision fees, and other assessments or payments. If any fines, costs, supervision fees, or other assessments or payments remained unpaid after all of the victim payments had been paid, any additional money collected would have to be applied to those fines, costs, etc. If any victim payments remained unpaid after all of the fines, costs, supervision fees, or other assessments or payments had been paid, any additional money collected would have to be applied toward those victim payments.

In cases involving prosecutions for violations of State law, money allocated above for payment of fines, costs, probation and parole supervision fees, and assessments or payments other than victim payments, would have to be applied in the following order of priority:

- Costs.
- Fines.
- Probation or parole supervision fees.
- Assessments and other payments.

In cases involving prosecutions for violations of local ordinances, money allocated above for payment of fines, costs, and assessments or payments other than victim payments would have to be applied in the following order of priority:

- Fines and costs.
- Assessments and other payments.

As used in these provisions, "victim payment" would mean restitution ordered to be paid to the victim, to the victim's estate, or to a person who reimbursed the victim for his or her loss, or an assessment ordered under the Crime Victims Rights Services Act.

Additional Provisions under Article II

The bill would define "court" as the family division of the circuit court (family court), rather than the juvenile division of the probate court.

Article II defines "juvenile" as an individual alleged or found to be within the family court's jurisdiction under Section 2(a)(1) of the juvenile code (a juvenile accused of violating a State law, municipal ordinance, or law of the United States). The bill specifies that this term would include, but not be limited to, an individual in a designated case. "Designated case" would mean a case designated as a case in which the juvenile was to be tried in the same manner as an adult under Section 2d of the juvenile code. (Under Section 2d, in a petition alleging that a juvenile is within the family court's jurisdiction for a "specified juvenile violation" (as defined in the code), the prosecuting attorney may

designate the case as one in which the juvenile is to be tried in the same manner as an adult. If a petition alleges that a juvenile is within the court's jurisdiction for an offense other than a specified juvenile violation, the prosecuting attorney may request that the court designate the case as one in which the juvenile is to be tried in the same manner as an adult; and the court may designate the case after a hearing. If a case is designated under Section 2d, the proceedings are criminal proceedings. After a judgment of conviction, the court must enter a disposition or impose any sentence as authorized under the code.)

Under the Act, the prosecuting attorney or the court, upon the victim's request, must give the victim notice of the offenses for which the juvenile was adjudicated, the victim's right to make an impact statement at the dispositional hearing, and the time and place of the disposition. The bill would require notice of the offenses for which the juvenile was adjudicated or convicted, the victim's right to make an impact statement at the dispositional hearing or sentencing, and the time and place of the disposition or sentencing proceeding.

Currently, if a report is to be prepared for the juvenile's disposition, the person preparing the report must notify the victim of his or her right to make an impact statement for use in preparing the report; the address and telephone number of the person who is to prepare the report; and that the report and any statement of the victim in it will be available to the juvenile unless exempted from disclosure by the court. Under the bill, these requirements would apply to a report other than a presentence investigation report. The bill would add the same requirements concerning a presentence investigation report if the juvenile were convicted of an offense in a designated case; the prosecutor or court would have to give this notice.

The bill would require the court to accept a petition submitted by a prosecuting attorney that sought to invoke the court's jurisdiction for a juvenile offense, unless the court found on the record that the petitioner's allegations were insufficient to support a claim of jurisdiction under Section 2(a)(1) of the juvenile code.

Currently, before placing a juvenile in a pretrial diversion program for committing a violation that if committed by an adult would be a crime or a serious misdemeanor, the court must give the victim an opportunity to be heard regarding that placement. The victim has the right to make a statement at the hearing or submit a written statement, or both. The bill would delete these provisions.

The bill provides that, except for a dismissal based upon a judicial finding on the record that the petition

and the facts supporting it were insufficient to support a claim of jurisdiction under Section 2(a)(1) of the juvenile code, a juvenile's case could not be diverted, placed on the consent calendar, or made subject to any other prepetition or preadjudication procedure removing the case from the adjudicative process without the consent of the prosecuting attorney. Before any formal or informal action was taken, the victim would have the right to timely notice, the right to consult the prosecuting attorney, the right to address the judge, and the right to restitution. All victims would be entitled to restitution as defined in the Act.

Also, before finalizing any informal disposition, preadjudication, or expedited procedure, the prosecuting attorney would have to offer the victim the opportunity to consult with him or her to obtain the views of the victim about that manner of disposing of the case.

The bill provides that, if a juvenile applied to have a conviction for an assaultive crime or serious misdemeanor set aside under Public Act 213 of 1965, and the prosecuting attorney knew the victim's name, the prosecutor would have to give the victim written notice of the application and forward a copy of it to the victim. The victim would have the right to appear at any proceeding under Public Act 213 concerning that conviction and make an oral or written statement.

BACKGROUND

Article II defines "offense" as a violation of a penal law of this State for which a juvenile offender, if convicted as an adult, may be punished by imprisonment for more than one year or an offense expressly designated by law as a felony. The definition also includes the following:

- Assault and battery, including domestic violence.
- Assault with infliction of serious injury, including aggravated domestic violence.
- Breaking and entering, or illegal entry.
- Child abuse in the fourth degree.
- Enticing a child for immoral purposes.
- Discharge of a firearm intentionally aimed at a person.
- Discharge of an unintentionally aimed firearm resulting in injury.
- Indecent exposure.
- Stalking.
- Leaving the scene of a personal injury accident, or operating a vehicle or a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death of another individual.

- Selling or furnishing alcoholic liquor to an individual under 21 years old, if the violation results in physical injury or death to any individual.

The definition of "serious misdemeanor" in Article III contains the same offenses listed above, as well as a violation charged as a crime or serious misdemeanor but subsequently reduced to or pleaded to as a misdemeanor.

MCL 780.2 et al.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill would have an indeterminate impact on the State and local units of government.

Community Health. The FY 1999-2000 Community Health budget includes \$4.6 million for victims rights compliance costs. That amount includes approximately \$500,000 for the automated notification system currently in development.

Courts. Requiring the prosecutors' consent for diversion in juvenile cases could result in fewer diversions, thereby increasing court time. Restitution hearings also would increase court time.

Corrections. The bill would have an indeterminate impact on the Department of Corrections, but potentially could increase costs for the DOC. To the extent that the Department currently provides notification of prisoner transfers to community residential placement (CRP) centers and has developed database systems and staff to provide notices to crime victims, the DOC is able to provide the services necessary to inform crime victims of movements of offenders within the community. To the extent that the bill would require additional notification of crime victims of prisoner movements within the community, thousands of moves would be added to the notification system already in place and modifications to the system to provide electronic tether addresses could be required. Assuming that the increases and modifications would be required, costs for the Department would increase. There are no data available to indicate the cost of database modifications. There are already 2.5 full-time equated positions (FTEs) providing notifications within the Department and 1.0 FTE working for the parole board. Assuming that an additional employee would be necessary to provide the additional notification required in the bill and that the position would be equivalent to an entry-level general office assistant, costs to the Department would increase

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

\$23,000 to \$28,000 a year for wages.

Police. The bill would have a minimal impact on State and local police agencies.

Fiscal Analyst: B. Bowerman
K. Firestone
B. Baker