

SENATE BILL No. 1180

March 28, 2000, Introduced by Senators VAN REGENMORTER, ROGERS, SCHUETTE, BULLARD and MC COTTER and referred to the Committee on Judiciary.

A bill to amend 1985 PA 87, entitled
"Crime victim's rights act,"
by amending sections 2, 3, 5, 6, 8, 11, 13a, 14, 15, 16, 18a, 19,
21, 31, 32, 35, 36, 38, 39, 41, 41a, 42, 43, 44, 46, 46a, 48, 61,
63, 65, 66, 68, 71, 74, 75, 76, 78, and 78a (MCL 780.752,
780.753, 780.755, 780.756, 780.758, 780.761, 780.763a, 780.764,
780.765, 780.766, 780.768a, 780.769, 780.771, 780.781, 780.782,
780.785, 780.786, 780.788, 780.789, 780.791, 780.791a, 780.792,
780.793, 780.794, 780.796, 780.796a, 780.798, 780.811, 780.813,
780.815, 780.816, 780.818, 780.821, 780.824, 780.825, 780.826,
780.828, and 780.828a), sections 2, 6, 13a, 31, 36, 41a, and 48
as amended by 1998 PA 523, sections 3, 5, 18a, 32, 35, 41, 43,
46, 63, 66, and 78 as amended and section 46a as added by 1993
PA 341, sections 16 and 76 as amended by 1998 PA 232, sections 19
and 78a as amended by 1996 PA 105, sections 38, 39, and 42 as

added by 1988 PA 22, section 44 as amended by 1996 PA 562,
section 61 as amended by 1996 PA 82, and sections 65, 68, 71, 74,
and 75 as added by 1988 PA 21, and by adding sections 16a, 36b,
44a, and 76a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) ~~As~~ EXCEPT AS OTHERWISE DEFINED IN THIS ARTI-
2 CLE, AS used in this article:

3 (a) "County juvenile agency" means that term as defined in
4 section 2 of the county juvenile agency act.

5 (b) "Crime" means a violation of a penal law of this state
6 for which the offender, upon conviction, may be punished by
7 imprisonment for more than 1 year or an offense expressly desig-
8 nated by law as a felony.

9 (c) "Defendant" means a person charged with or convicted of
10 committing a crime against a victim.

11 (d) "Final disposition" means the ultimate termination of
12 the criminal prosecution of a defendant including, but not
13 limited to, dismissal, acquittal, or imposition of sentence by
14 the court.

15 (e) "Juvenile" means a person within the jurisdiction of the
16 circuit court under section 606 of the revised judicature act of
17 1961, 1961 PA 236, MCL 600.606.

18 (f) "Juvenile facility" means a county facility, institution
19 operated as an agency of the county or the family division of
20 circuit court, or an institution or agency described in the youth
21 rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309,

1 to which a juvenile has been committed or in which a juvenile is
2 detained.

3 (g) "Person" means an individual, organization, partnership,
4 corporation, or governmental entity.

5 (h) "Prisoner" means a person who has been convicted and
6 sentenced to imprisonment or placement in a juvenile facility for
7 having committed a crime or an act that would be a crime if com-
8 mitted by an adult against a victim.

9 (i) "Prosecuting attorney" means the prosecuting attorney
10 for a county, an assistant prosecuting attorney for a county, the
11 attorney general, the deputy attorney general, an assistant
12 attorney general, or a special prosecuting attorney.

13 (j) "Victim" ~~—, except as otherwise defined in this~~
14 ~~article,~~ means any of the following:

15 (i) An individual who suffers direct or threatened physical,
16 financial, or emotional harm as a result of the commission of a
17 crime, except as provided in subparagraph (ii), (iii), or (iv).

18 (ii) The following individuals other than the defendant if
19 the victim is deceased:

20 (A) The spouse of the deceased victim.

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

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

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

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

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

5 (iii) A parent, guardian, or custodian of a victim who is
6 less than 18 years of age AND WHO IS NOT THE DEFENDANT AND IS NOT
7 INCARCERATED, if the parent, guardian, or custodian so chooses.

8 (iv) A parent, guardian, or custodian of a victim who is
9 mentally or emotionally unable to participate in the legal pro-
10 cess IF HE OR SHE IS NOT THE DEFENDANT AND IS NOT INCARCERATED.

11 (2) If a victim as defined in subsection (1)(j)(i) is physi-
12 cally or emotionally unable to exercise the privileges and rights
13 under this article, the victim may designate his or her spouse,
14 child 18 years of age or older, parent, sibling, ~~or~~
15 grandparent, OR ANY OTHER PERSON 18 YEARS OF AGE OR OLDER WHO IS
16 NOT THE DEFENDANT AND IS NOT INCARCERATED to act in his or her
17 place while the physical or emotional disability continues. The
18 victim shall provide the prosecuting attorney with the name of
19 the person who is to act in his or her place. During the physi-
20 cal or emotional disability, notices to be provided under this
21 article to the victim shall continue to be sent only to the
22 victim.

23 (3) AN INDIVIDUAL WHO IS CHARGED WITH A CRIME ARISING OUT OF
24 THE SAME TRANSACTION FROM WHICH THE CHARGE AGAINST THE DEFENDANT
25 AROSE IS NOT ELIGIBLE TO EXERCISE THE PRIVILEGES AND RIGHTS
26 ESTABLISHED FOR VICTIMS UNDER THIS ARTICLE.

1 (4) AN INDIVIDUAL WHO IS INCARCERATED IS NOT ELIGIBLE TO
2 EXERCISE THE PRIVILEGES AND RIGHTS ESTABLISHED FOR VICTIMS UNDER
3 THIS ARTICLE EXCEPT THAT HE OR SHE MAY SUBMIT A WRITTEN STATEMENT
4 TO THE COURT.

5 Sec. 3. Within 24 hours after the initial contact between
6 the victim of a reported crime and the law enforcement agency
7 having the responsibility for investigating that crime, that
8 agency shall give to the victim the following information in
9 writing:

10 (a) The availability of emergency and medical services, if
11 applicable.

12 (b) The availability of victim's compensation benefits and
13 the address of the crime victims compensation board.

14 (c) The address and telephone number of the prosecuting
15 attorney whom the victim should contact to obtain information
16 about victim's rights.

17 (d) The following ~~statement~~ STATEMENTS:

18 "IF YOU WOULD LIKE TO BE NOTIFIED OF AN ARREST IN YOUR CASE
19 OR THE RELEASE OF THE PERSON ARRESTED, OR BOTH, YOU SHOULD CALL
20 (IDENTIFY LAW ENFORCEMENT AGENCY AND TELEPHONE NUMBER) AND INFORM
21 THEM."

22 "If you are not notified of an arrest in your case, you may
23 call this law enforcement agency at [the law enforcement agency's
24 telephone number] for the status of the case.".

25 Sec. 5. (1) Not later than 24 hours after the arraignment
26 of the defendant for a crime, the law enforcement agency having
27 responsibility for investigating the crime shall give to the

1 victim notice of the availability of pretrial release for the
2 defendant, the telephone number of the sheriff or juvenile facil-
3 ity, and notice that the victim may contact the sheriff or juve-
4 nile facility to determine whether the defendant has been
5 released from custody. THE LAW ENFORCEMENT AGENCY HAVING RESPON-
6 SIBILITY FOR INVESTIGATING THE CRIME SHALL PROMPTLY NOTIFY THE
7 VICTIM OF THE ARREST OR PRETRIAL RELEASE OF THE DEFENDANT, OR
8 BOTH, IF THE VICTIM REQUESTS OR HAS REQUESTED THAT INFORMATION.
9 IF THE DEFENDANT IS RELEASED FROM CUSTODY BY THE SHERIFF OR JUVE-
10 NILE FACILITY, THE SHERIFF OR JUVENILE FACILITY SHALL NOTIFY THE
11 LAW ENFORCEMENT AGENCY HAVING RESPONSIBILITY FOR INVESTIGATING
12 THE CRIME.

13 (2) Based upon any credible evidence of acts or threats of
14 physical violence or intimidation by the defendant or at the
15 defendant's direction against the victim or the victim's immedi-
16 ate family, the prosecuting attorney may move that the bond or
17 personal recognizance of a defendant be revoked.

18 Sec. 6. (1) Not later than 7 days after the defendant's
19 arraignment for a crime, but not less than 24 hours before a pre-
20 liminary examination, the prosecuting attorney shall give to each
21 victim a written notice in plain English of each of the
22 following:

23 (a) A brief statement of the procedural steps in the pro-
24 cessing of a criminal case.

25 (b) A specific list of the rights and procedures under this
26 article.

1 (C) A CONVENIENT MEANS FOR THE VICTIM TO NOTIFY THE
2 PROSECUTING ATTORNEY THAT THE VICTIM CHOOSES TO EXERCISE HIS OR
3 HER RIGHTS UNDER THIS ARTICLE.

4 (D) ~~-(c)-~~ Details and eligibility requirements FOR COMPENSA-
5 TION FROM THE CRIME VICTIMS SERVICES COMMISSION under 1976 PA
6 223, MCL 18.351 to 18.368.

7 (E) ~~-(d)-~~ Suggested procedures if the victim is subjected to
8 threats or intimidation.

9 (F) ~~-(e)-~~ The person to contact for further information.

10 (2) If the victim requests, the prosecuting attorney shall
11 give the victim notice of any scheduled court proceedings and any
12 changes in that schedule.

13 (3) Before finalizing any negotiation that may result in a
14 dismissal, plea or sentence bargain, or pretrial diversion, the
15 prosecuting attorney shall offer the victim the opportunity to
16 consult with the prosecuting attorney to obtain the victim's
17 views about the disposition of the prosecution for the crime,
18 including the victim's views about dismissal, plea or sentence
19 negotiations, and pretrial diversion programs.

20 (4) A victim who receives a notice under subsection (1) and
21 who chooses to receive any ~~other~~ notice or ~~notices~~ EXERCISE
22 ANY RIGHT under this article shall keep the following persons
23 informed of the victim's current address and telephone number:

24 (a) The prosecuting attorney, until final disposition or
25 completion of the appellate process, whichever occurs later.

26 (b) The department of corrections or the sheriff as the
27 prosecuting attorney directs if the defendant is imprisoned.

1 (c) The family independence agency or county juvenile agency
2 as the prosecuting attorney directs if the defendant is held in a
3 juvenile facility.

4 Sec. 8. (1) Based upon the victim's reasonable apprehension
5 of acts or threats of physical violence or intimidation by the
6 defendant or at defendant's direction against the victim or the
7 victim's immediate family, the ~~prosecutor~~ PROSECUTING ATTORNEY
8 may move that the victim or any other witness not be compelled to
9 testify at pretrial proceedings or at trial for purposes of iden-
10 tifying the victim as to the victim's address, place of employ-
11 ment, or other personal identification without the victim's
12 consent. A hearing on the motion shall be in camera.

13 (2) The WORK ADDRESS AND address of the victim shall not be
14 in the court file or ordinary court documents unless contained in
15 a transcript of the trial or it is used to identify the place of
16 the crime. The ~~phone~~ WORK TELEPHONE NUMBER AND TELEPHONE
17 number of the victim shall not be in the court file or ordinary
18 court documents except as contained in a transcript of the
19 trial.

20 (3) PURSUANT TO SECTION 24 OF ARTICLE I OF THE STATE CONSTI-
21 TUTION OF 1963, GUARANTEEING TO CRIME VICTIMS THE RIGHT TO BE
22 TREATED WITH RESPECT FOR THEIR DIGNITY AND PRIVACY, ALL OF THE
23 FOLLOWING INFORMATION AND VISUAL REPRESENTATIONS OF A VICTIM ARE
24 EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976
25 PA 442, MCL 15.231 TO 15.246:

26 (A) THE NAME, HOME ADDRESS, HOME TELEPHONE NUMBER, WORK
27 ADDRESS, AND WORK TELEPHONE NUMBER OF THE VICTIM.

1 (B) A PICTURE, PHOTOGRAPH, DRAWING, OR OTHER VISUAL
2 REPRESENTATION, INCLUDING ANY FILM, VIDEOTAPE, OR DIGITALLY
3 STORED IMAGE, SHOWING THE VICTIM'S INTIMATE PARTS, OR SHOWING
4 SEXUAL CONTACT OR SEXUAL PENETRATION INVOLVING THE VICTIM. AS
5 USED IN THIS SUBDIVISION, "INTIMATE PARTS", "SEXUAL CONTACT", AND
6 "SEXUAL PENETRATION" HAVE THE MEANINGS GIVEN TO THOSE TERMS IN
7 SECTION 520A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
8 750.520A.

9 Sec. 11. The victim SHALL NOT BE SEQUESTERED AND has the
10 right to be present throughout the DEFENDANT'S entire trial ~~of~~
11 ~~the defendant, unless the victim is going to be called as a~~
12 ~~witness~~ AND ALL OTHER COURT PROCEEDINGS THAT THE DEFENDANT HAS
13 THE RIGHT TO ATTEND. ~~If the victim is going to be called as a~~
14 ~~witness, the court may, for good cause shown, order the victim to~~
15 ~~be sequestered until the victim first testifies.~~

16 Sec. 13a. When a defendant is sentenced to a term of
17 imprisonment or ordered to be placed in a juvenile facility, the
18 prosecuting attorney shall provide the victim with a form the
19 victim may submit to receive the notices provided for under
20 section 19, {20,} or 20a. The form shall include the address of
21 the department of corrections, the sheriff, the family indepen-
22 dence agency, or the county juvenile agency, as applicable, to
23 which the form may be sent.

24 Sec. 14. The victim has the right to submit or make a writ-
25 ten or oral impact statement to the probation officer for use by
26 that officer in preparing a presentence investigation report
27 concerning the defendant pursuant to section 14 of chapter XI of

1 the code of criminal procedure, ~~Act No. 175 of the Public Acts~~
2 ~~of 1927, being section 771.14 of the Michigan Compiled Laws~~ 1927
3 PA 175, MCL 771.14. A victim's written statement shall upon the
4 victim's request, be included in the presentence investigation
5 report.

6 Sec. 15. The victim ~~shall have~~ HAS the right to appear
7 and make an oral impact statement at the sentencing of the
8 defendant. IF THE VICTIM IS PHYSICALLY OR EMOTIONALLY UNABLE TO
9 MAKE THE ORAL IMPACT STATEMENT, THE VICTIM MAY DESIGNATE ANY
10 OTHER PERSON 18 YEARS OF AGE OR OLDER WHO IS NOT THE DEFENDANT
11 AND IS NOT SERVING A SENTENCE TO MAKE THE STATEMENT ON HIS OR HER
12 BEHALF. THE OTHER PERSON NEED NOT BE AN ATTORNEY.

13 Sec. 16. (1) For purposes of this section only, "victim"
14 means an individual who suffers direct or threatened physical,
15 financial, or emotional harm as a result of the commission of a
16 crime. For purposes of subsections (2), (3), (6), (8), (9), and
17 (13), victim includes a sole proprietorship, partnership, corpo-
18 ration, association, governmental entity, or any other legal
19 entity that suffers direct physical or financial harm as a result
20 of a crime.

21 (2) Except as provided in subsection (8), when sentencing a
22 defendant convicted of a crime, the court shall order, in addi-
23 tion to or in lieu of any other penalty authorized by law or in
24 addition to any other penalty required by law, that the defendant
25 make full restitution to any victim of the defendant's course of
26 conduct that gives rise to the conviction or to the victim's
27 estate.

1 (3) If a crime results in damage to or loss or destruction
2 of property of a victim of the crime or results in the seizure or
3 impoundment of property of a victim of the crime, the order of
4 restitution may require that the defendant do 1 or more of the
5 following, as applicable:

6 (a) Return the property to the owner of the property or to a
7 person designated by the owner.

8 (b) If return of the property under subdivision (a) is
9 impossible, impractical, or inadequate, pay an amount equal to
10 the greater of subparagraph (i) or (ii), less the value, deter-
11 mined as of the date the property is returned, of that property
12 or any part of the property that is returned:

13 (i) The value of the property on the date of the damage,
14 loss, or destruction.

15 (ii) The value of the property on the date of sentencing.

16 (c) Pay the costs of the seizure or impoundment, or both.

17 (4) If a crime results in physical or psychological injury
18 to a victim, the order of restitution may require that the
19 defendant do 1 or more of the following, as applicable:

20 (a) Pay an amount equal to the cost of ~~actual~~ medical and
21 related professional services and devices ACTUALLY INCURRED AND
22 REASONABLY EXPECTED TO BE INCURRED relating to physical and psy-
23 chological care.

24 (b) Pay an amount equal to the cost of ~~actual~~ physical and
25 occupational therapy and rehabilitation ACTUALLY INCURRED AND
26 REASONABLY EXPECTED TO BE INCURRED.

1 (c) Reimburse the victim or the victim's estate for
2 after-tax income loss suffered by the victim as a result of the
3 crime OR, IF THE VICTIM IS LESS THAN 18 YEARS OF AGE OR IS
4 CLAIMED AS A DEPENDENT BY HIS OR HER PARENT OR GUARDIAN ON THE
5 PARENT'S OR GUARDIAN'S FEDERAL INCOME TAX RETURN, AFTER-TAX
6 INCOME LOSS SUFFERED BY THE VICTIM'S PARENT OR GUARDIAN AS A
7 RESULT OF THE CRIME.

8 (d) Pay an amount equal to the cost of psychological and
9 medical treatment for members of the victim's family ~~that has~~
10 ~~been~~ ACTUALLY incurred AND REASONABLY EXPECTED TO BE INCURRED as
11 a result of the crime.

12 (e) Pay an amount equal to the costs of ~~actual~~ homemaking
13 and child care expenses ACTUALLY incurred AND REASONABLY EXPECTED
14 TO BE INCURRED as a result of the crime OR, IF HOMEMAKING OR
15 CHILD CARE IS PROVIDED WITHOUT COMPENSATION BY A RELATIVE,
16 FRIEND, OR ANY OTHER PERSON, AN AMOUNT EQUAL TO THE COSTS THAT
17 WOULD REASONABLY BE INCURRED AS A RESULT OF THE CRIME FOR THAT
18 HOMEMAKING AND CHILD CARE, BASED ON THE RATES IN THE AREA FOR
19 COMPARABLE SERVICES.

20 (F) ~~(5) If a crime resulting in bodily injury also results~~
21 ~~in the death of a victim, the order of restitution may require~~
22 ~~that the defendant pay~~ PAY an amount equal to the cost of actual
23 funeral and related services.

24 (G) IF THE DECEASED VICTIM COULD BE CLAIMED AS A DEPENDENT
25 BY HIS OR HER PARENT OR GUARDIAN ON THE PARENT'S OR GUARDIAN'S
26 FEDERAL, STATE, OR LOCAL INCOME TAX RETURNS, PAY AN AMOUNT EQUAL
27 TO THE LOSS OF THE TAX DEDUCTION. THE AMOUNT OF REIMBURSEMENT

1 SHALL BE ESTIMATED FOR EACH YEAR THE VICTIM COULD REASONABLY BE
2 CLAIMED AS A DEPENDENT.

3 (5) IF A CRIME RESULTING IN BODILY INJURY ALSO RESULTS IN
4 THE DEATH OF A VICTIM OR SERIOUS IMPAIRMENT OF A BODY FUNCTION OF
5 A VICTIM, THE COURT MAY ORDER UP TO 3 TIMES THE AMOUNT OF RESTI-
6 TUTION OTHERWISE ALLOWED UNDER THIS SECTION. AS USED IN THIS
7 SUBSECTION, "SERIOUS IMPAIRMENT OF A BODY FUNCTION OF A VICTIM"
8 INCLUDES, BUT IS NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

9 (A) LOSS OF A LIMB OR USE OF A LIMB.

10 (B) LOSS OF A HAND OR FOOT OR USE OF A HAND OR FOOT.

11 (C) LOSS OF AN EYE OR USE OF AN EYE OR EAR.

12 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.

13 (E) SERIOUS VISIBLE DISFIGUREMENT.

14 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.

15 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.

16 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.

17 (I) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.

18 (J) LOSS OF A BODY ORGAN.

19 (6) If the victim or victim's estate consents, the order of
20 restitution may require that the defendant make restitution in
21 services in lieu of money.

22 (7) If the victim is deceased, the court shall order that
23 the restitution be made to the victim's estate.

24 (8) The court shall order restitution to the crime victim
25 services commission or to any individuals, partnerships, corpora-
26 tions, associations, governmental entities, or other legal
27 entities that have compensated the victim or the victim's estate

1 for a loss incurred by the victim to the extent of the
2 compensation paid for that loss. The court shall also order res-
3 titution for the costs of services provided to persons or enti-
4 ties that have provided services to the victim as a result of the
5 crime. Services that are subject to restitution under this sub-
6 section include, but are not limited to, shelter, food, clothing,
7 and transportation. However, an order of restitution shall
8 require that all restitution to a victim or victim's estate under
9 the order be made before any restitution to any other person or
10 entity under that order is made. The court shall not order res-
11 titution to be paid to a victim or victim's estate if the victim
12 or victim's estate has received or is to receive compensation for
13 that loss, and the court shall state on the record with specific-
14 ity the reasons for its action. ~~If an entity entitled to resti-~~
15 ~~tution under this subsection for compensating the victim or the~~
16 ~~victim's estate cannot or refuses to be reimbursed for that com-~~
17 ~~pensation, the restitution paid for that entity shall be depos-~~
18 ~~ited by the state treasurer in the crime victim's rights fund~~
19 ~~created under section 4 of 1989 PA 196, MCL 780.904, or its suc-~~
20 ~~cessor fund.~~

21 (9) Any amount paid to a victim or victim's estate under an
22 order of restitution shall be set off against any amount later
23 recovered as compensatory damages by the victim or the victim's
24 estate in any federal or state civil proceeding and shall reduce
25 the amount payable to a victim or a victim's estate by an award
26 from the crime victim services commission made after an order of
27 restitution under this section.

1 (10) If not otherwise provided by the court under this
2 subsection, restitution shall be made immediately. However, the
3 court may require that the defendant make restitution under this
4 section within a specified period or in specified installments.

5 (11) If the defendant is placed on probation or paroled or
6 the court imposes a conditional sentence as provided in section 3
7 of chapter IX of the code of criminal procedure, 1927 PA 175,
8 MCL 769.3, any restitution ordered under this section shall be a
9 condition of that probation, parole, or sentence. The court may
10 revoke probation or impose imprisonment under the conditional
11 sentence and the parole board may revoke parole if the defendant
12 fails to comply with the order and if the defendant has not made
13 a good faith effort to comply with the order. In determining
14 whether to revoke probation or parole or impose imprisonment, the
15 court or parole board shall consider the defendant's employment
16 status, earning ability, and financial resources, the willfulness
17 of the defendant's failure to pay, and any other special circum-
18 stances that may have a bearing on the defendant's ability to
19 pay.

20 (12) A defendant who is required to pay restitution and who
21 is not in willful default of the payment of the restitution may
22 at any time petition the sentencing judge or his or her successor
23 to modify the method of payment. If the court determines that
24 payment under the order will impose a manifest hardship on the
25 defendant or his or her immediate family, AND IF THE COURT ALSO
26 DETERMINES THAT MODIFYING THE METHOD OF PAYMENT WILL NOT IMPOSE A

1 MANIFEST HARDSHIP ON THE VICTIM, the court may modify the method
2 of payment.

3 (13) An order of restitution entered under this section
4 remains effective until it is satisfied in full. An order of
5 restitution is a judgment and lien against all property of the
6 defendant for the amount specified in the order of restitution.
7 The lien may be recorded as provided by law. An order of resti-
8 tution may be enforced UPON THE COURT'S OWN MOTION, OR by the
9 prosecuting attorney, a victim, a victim's estate, or any other
10 person or entity named in the order to receive the restitution in
11 the same manner as a judgment in a civil action or a lien.

12 (14) Notwithstanding any other provision of this section, a
13 defendant shall not be imprisoned, jailed, or incarcerated for a
14 violation of probation or parole or otherwise for failure to pay
15 restitution as ordered under this section unless the court or
16 parole board determines that the defendant has the resources to
17 pay the ordered restitution and has not made a good faith effort
18 to do so.

19 (15) IF THE COURT DETERMINES THAT A JUVENILE IS OR WILL BE
20 UNABLE TO PAY ALL OF THE RESTITUTION ORDERED, AFTER NOTICE TO THE
21 JUVENILE'S PARENT OR PARENTS AND AN OPPORTUNITY FOR THE PARENT OR
22 PARENTS TO BE HEARD THE COURT MAY ORDER THE PARENT OR PARENTS
23 HAVING SUPERVISORY RESPONSIBILITY FOR THE JUVENILE AT THE TIME OF
24 THE ACTS UPON WHICH AN ORDER OF RESTITUTION IS BASED TO PAY ANY
25 PORTION OF THE RESTITUTION ORDERED THAT IS OUTSTANDING. AN ORDER
26 UNDER THIS SUBSECTION DOES NOT RELIEVE THE JUVENILE OF HIS OR HER
27 OBLIGATION TO PAY RESTITUTION AS ORDERED, BUT THE AMOUNT OWED BY

1 THE JUVENILE SHALL BE OFFSET BY ANY AMOUNT PAID BY HIS OR HER
2 PARENT. AS USED IN THIS SUBSECTION:

3 (A) "JUVENILE" MEANS A PERSON WITHIN THE COURT'S JURISDIC-
4 TION UNDER SECTION 2D OR 4 OF CHAPTER XIIA OF 1939 PA 288, MCL
5 712A.2D AND 712A.4.

6 (B) "PARENT" DOES NOT INCLUDE A FOSTER PARENT.

7 (16) IF THE COURT ORDERS A PARENT TO PAY RESTITUTION UNDER
8 SUBSECTION (15), THE COURT SHALL TAKE INTO ACCOUNT THE PARENT'S
9 FINANCIAL RESOURCES AND THE BURDEN THAT THE PAYMENT OF RESTITU-
10 TION WILL IMPOSE, WITH DUE REGARD TO ANY OTHER MORAL OR LEGAL
11 FINANCIAL OBLIGATIONS THE PARENT MAY HAVE. IF A PARENT IS
12 REQUIRED TO PAY RESTITUTION UNDER SUBSECTION (15), THE COURT
13 SHALL PROVIDE FOR PAYMENT TO BE MADE IN SPECIFIED INSTALLMENTS
14 AND WITHIN A SPECIFIED PERIOD OF TIME.

15 (17) A PARENT WHO HAS BEEN ORDERED TO PAY RESTITUTION UNDER
16 SUBSECTION (15) MAY PETITION THE COURT FOR A MODIFICATION OF THE
17 AMOUNT OF RESTITUTION OWED BY THE PARENT OR FOR A CANCELLATION OF
18 ANY UNPAID PORTION OF THE PARENT'S OBLIGATION. THE COURT SHALL
19 CANCEL ALL OR PART OF THE PARENT'S OBLIGATION DUE IF THE COURT
20 DETERMINES THAT PAYMENT OF THE AMOUNT DUE WILL IMPOSE A MANIFEST
21 HARDSHIP ON THE PARENT AND IF THE COURT ALSO DETERMINES THAT MOD-
22 IFYING THE METHOD OF PAYMENT WILL NOT IMPOSE A MANIFEST HARDSHIP
23 ON THE VICTIM.

24 (18) ~~-(15)-~~ In each case in which payment of restitution is
25 ordered as a condition of probation, the COURT SHALL ORDER ANY
26 EMPLOYED DEFENDANT TO EXECUTE A WAGE ASSIGNMENT TO PAY THE
27 RESTITUTION. IF THE DEFENDANT IS NOT CURRENTLY EMPLOYED, BUT

1 BECOMES EMPLOYED DURING THE PERIOD OF PROBATION, THE PROBATION
2 OFFICER SHALL ENSURE THAT THE DEFENDANT EXECUTES A WAGE
3 ASSIGNMENT. THE probation officer assigned to the case shall
4 review the case not less than twice yearly to ensure that resti-
5 tution is being paid as ordered. IF THE RESTITUTION WAS ORDERED
6 TO BE MADE IMMEDIATELY, THE PROBATION OFFICER ASSIGNED TO THE
7 CASE SHALL REVIEW THE CASE NOT LESS THAN 3 MONTHS AFTER THE RES-
8 TITUTION WAS ORDERED TO DETERMINE IF THE RESTITUTION HAS BEEN
9 PAID IN FULL. The final review shall be conducted not less than
10 60 days before the probationary period expires. If the probation
11 officer determines AT ANY REVIEW that restitution is not being
12 paid as ordered, the probation officer shall file a written
13 report of the violation with the court on a form prescribed by
14 the state court administrative office. The report shall include
15 a statement of the amount of the arrearage and any reasons for
16 the arrearage known by the probation officer. The probation
17 officer shall immediately provide a copy of the report to the
18 prosecuting attorney. ~~If a motion is filed or other proceedings~~
19 ~~are initiated to enforce payment of restitution and~~ UPON RECEIPT
20 OF THE REPORT, THE COURT SHALL CONDUCT A HEARING, AND IF the
21 court determines that restitution is not being paid or has not
22 been paid as ordered by the court, the court shall promptly take
23 action necessary to compel compliance.

24 (19) ~~(16)~~ If a defendant who is ordered to pay restitution
25 under this section is remanded to the jurisdiction of the depart-
26 ment of corrections, the court shall provide a copy of the order

1 of restitution to the department of corrections when the
2 defendant is remanded to the department's jurisdiction.

3 (20) THE COURT SHALL NOT IMPOSE A FEE ON A VICTIM, VICTIM'S
4 ESTATE, OR PROSECUTING ATTORNEY FOR ENFORCING AN ORDER OF
5 RESTITUTION.

6 (21) IF A PERSON OR ENTITY ENTITLED TO RESTITUTION CANNOT BE
7 LOCATED OR REFUSES TO CLAIM THAT RESTITUTION WITHIN 2 YEARS AFTER
8 THE DATE ON WHICH HE OR SHE COULD HAVE CLAIMED THE RESTITUTION,
9 THE RESTITUTION PAID TO THAT PERSON OR ENTITY SHALL BE DEPOSITED
10 IN THE CRIME VICTIM'S RIGHTS FUND CREATED UNDER SECTION 4 OF 1989
11 PA 196, MCL 780.904, OR ITS SUCCESSOR FUND. HOWEVER, A PERSON OR
12 ENTITY ENTITLED TO THAT RESTITUTION MAY CLAIM THAT RESTITUTION AT
13 ANY TIME BY APPLYING TO THE CRIME VICTIM SERVICES COMMISSION IN
14 THE MANNER PROVIDED BY LAW.

15 SEC. 16A. (1) IF A PERSON IS SUBJECT TO ANY COMBINATION OF
16 FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
17 SUPERVISION FEES, OR OTHER PAYMENTS ARISING OUT OF THE SAME CRIM-
18 INAL PROCEEDING, MONEY COLLECTED FROM THAT PERSON FOR THE PAYMENT
19 OF FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
20 SUPERVISION FEES, OR OTHER PAYMENTS SHALL BE ALLOCATED AS PRO-
21 VIDED IN THIS SECTION.

22 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF A
23 PERSON IS SUBJECT TO PAYMENT OF VICTIM PAYMENTS AND ANY COMBINA-
24 TION OF OTHER FINES, COSTS, ASSESSMENTS, PROBATION OR PAROLE
25 SUPERVISION FEES, OR OTHER PAYMENTS, 50% OF EACH PAYMENT COL-
26 LECTED BY THE COURT FROM THAT PERSON SHALL BE APPLIED TO PAYMENT
27 OF VICTIM PAYMENTS, AND THE BALANCE SHALL BE APPLIED TO PAYMENT

1 OF FINES, COSTS, SUPERVISION FEES, AND OTHER ASSESSMENTS OR
2 PAYMENTS. IF ANY FINES, COSTS, SUPERVISION FEES, OR OTHER
3 ASSESSMENTS OR PAYMENTS REMAIN UNPAID AFTER ALL OF THE VICTIM
4 PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COLLECTED SHALL BE
5 APPLIED TO PAYMENT OF THOSE FINES, COSTS, SUPERVISION FEES, OR
6 OTHER ASSESSMENTS OR PAYMENTS. IF ANY VICTIM PAYMENTS REMAIN
7 UNPAID AFTER ALL OF THE FINES, COSTS, SUPERVISION FEES, OR OTHER
8 ASSESSMENTS OR PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COL-
9 LECTED SHALL BE APPLIED TOWARD PAYMENT OF THOSE VICTIM PAYMENTS.

10 (3) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF STATE
11 LAW, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF FINES,
12 COSTS, PROBATION AND PAROLE SUPERVISION FEES, AND ASSESSMENTS OR
13 PAYMENTS OTHER THAN VICTIM PAYMENTS SHALL BE APPLIED IN THE FOL-
14 LOWING ORDER OF PRIORITY:

15 (A) PAYMENT OF COSTS.

16 (B) PAYMENT OF FINES.

17 (C) PAYMENT OF PROBATION OR PAROLE SUPERVISION FEES.

18 (D) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS.

19 (4) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF LOCAL
20 ORDINANCES, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF
21 FINES, COSTS, AND ASSESSMENTS OR PAYMENTS OTHER THAN VICTIM PAY-
22 MENTS SHALL BE APPLIED IN THE FOLLOWING ORDER OF PRIORITY:

23 (A) PAYMENT OF FINES AND COSTS.

24 (B) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS.

25 (5) AS USED IN THIS SECTION, "VICTIM PAYMENT" MEANS RESTITU-
26 TION ORDERED TO BE PAID TO THE VICTIM, TO THE VICTIM'S ESTATE, OR

1 TO A PERSON WHO REIMBURSED THE VICTIM FOR HIS OR HER LOSS, OR AN
2 ASSESSMENT ORDERED UNDER SECTION 5 OF 1989 PA 196, MCL 780.905.

3 Sec. 18a. (1) Upon the request of the victim, the prosecut-
4 ing attorney shall notify the victim of the following:

5 (a) That the defendant ~~has~~ filed an appeal of his or her
6 conviction OR SENTENCE OR THAT THE PROSECUTING ATTORNEY FILED AN
7 APPEAL.

8 (b) Whether the defendant has been ordered released on bail
9 or other recognizance pending the disposition of the appeal. If
10 the prosecuting attorney is notified that the defendant has been
11 ordered released on bail or other recognizance pending disposi-
12 tion of the appeal, the prosecuting attorney shall use any means
13 reasonably calculated to give the victim notice of that order
14 within 24 hours after the prosecuting attorney is notified of the
15 order.

16 (c) The time and place of any appellate court proceedings
17 and any changes in the time or place of those proceedings.

18 (d) The result of the appeal. If the prosecuting attorney
19 is notified that the conviction is ~~ordered~~ reversed, ~~or~~ THE
20 SENTENCE IS VACATED, the case is remanded for further proceedings
21 OR A NEW TRIAL, OR THE PROSECUTING ATTORNEY'S APPEAL IS DENIED,
22 the prosecuting attorney shall use any means reasonably calcu-
23 lated to give the victim notice of that order within 24 hours
24 after the prosecuting attorney is notified of the order. NOT
25 LATER THAN 48 HOURS BEFORE RELEASING AN OPINION OR ORDER THAT
26 REVERSES A CONVICTION, VACATES A SENTENCE, REMANDS A CASE TO THE
27 TRIAL COURT FOR FURTHER PROCEEDINGS OR A NEW TRIAL, OR DENIES A

1 PROSECUTING ATTORNEY'S APPEAL, THE CLERK OF THE APPELLATE COURT
2 SHALL PROVIDE THE PROSECUTING ATTORNEY OF RECORD WITH A COPY OF
3 THAT ORDER OR OPINION.

4 (2) If the prosecuting attorney is not successful in notify-
5 ing the victim of an event described in subsection (1) within the
6 period set forth in that subsection, ~~for notification,~~ the
7 prosecuting attorney shall notify the victim of that event as
8 soon as possible by any means reasonably calculated to give the
9 victim prompt actual notice.

10 (3) Upon the request of the victim, the prosecuting attorney
11 shall provide the victim with a brief explanation in plain
12 English of the appeal process, including the possible
13 dispositions.

14 (4) If ~~the defendant's conviction is reversed and~~ the case
15 is returned to the trial court for further proceedings OR A NEW
16 TRIAL, the victim ~~shall have~~ HAS the same rights AS previously
17 requested during the proceedings ~~which~~ THAT led to the appeal.

18 Sec. 19. (1) Upon the VICTIM'S written request, ~~of a~~
19 ~~victim of a crime,~~ the sheriff or the department of corrections
20 shall mail to the victim the following, as applicable, about a
21 prisoner who has been sentenced to imprisonment under the juris-
22 diction of the sheriff or the department for ~~commission of that~~
23 THE crime AGAINST THAT VICTIM:

24 (a) Within 30 days after the request, notice of the
25 sheriff's calculation of the PRISONER'S earliest release date ~~of~~
26 ~~the prisoner,~~ or the department's calculation of the PRISONER'S
27 earliest parole eligibility date, ~~of the prisoner,~~ with all

1 potential good time or disciplinary credits considered, if the
2 sentence of imprisonment exceeds 90 days. The victim may request
3 1-time only notice of the calculation described in this
4 subdivision.

5 (b) Notice of the PRISONER'S transfer or pending transfer
6 ~~of the prisoner~~ to a minimum security facility and the
7 FACILITY'S address. ~~of that facility.~~

8 (c) Notice of the PRISONER'S release or pending release ~~of~~
9 ~~the prisoner~~ in a community residential program ~~—~~, OR under
10 ~~extended~~ furlough; ~~—, or~~ any other transfer ~~of a prisoner~~ to
11 community status; ANY TRANSFER FROM 1 COMMUNITY RESIDENTIAL PRO-
12 GRAM OR ELECTRONIC MONITORING PROGRAM TO ANOTHER; OR ANY TRANSFER
13 FROM A COMMUNITY RESIDENTIAL PROGRAM OR ELECTRONIC MONITORING
14 PROGRAM TO A STATE CORRECTIONAL FACILITY.

15 (d) Notice of the escape of the person accused, convicted,
16 or imprisoned for committing a crime against the victim, as pro-
17 vided in section 20.

18 (e) Notice of the victim's right to address or submit a
19 written statement for consideration by a parole board member or a
20 member of any other panel having authority over the prisoner's
21 release on parole, as provided in section 21.

22 (f) Notice of the decision of the parole board, or any other
23 panel having authority over the prisoner's release on parole,
24 after a parole review, as provided in section 21(3).

25 (G) THE VICTIM'S RIGHT TO APPEAL THE PAROLE BOARD'S DECI-
26 SION, AS PROVIDED IN SECTION 34(8) OF 1953 PA 232, MCL 791.234.

1 (H) ~~-(g)-~~ Notice of the release of a prisoner 90 days before
2 the date of the prisoner's discharge from prison, ~~if practical,~~
3 unless the notice has been otherwise provided under this
4 article.

5 (I) ~~-(h)-~~ Notice of a public hearing under section 44 of
6 ~~Act No. 232 of the Public Acts of 1953, being section 791.244 of~~
7 ~~the Michigan Compiled Laws 1953 PA 232, MCL 791.244, regarding a~~
8 reprieve, commutation, or pardon of the prisoner's sentence by
9 the governor.

10 (J) ~~-(i)-~~ Notice that a reprieve, commutation, or pardon has
11 been granted.

12 (K) ~~-(j)-~~ Notice that a prisoner has had his or her name
13 legally changed while on parole or within 2 years ~~of~~ AFTER
14 release from parole.

15 (L) NOTICE THAT A PRISONER HAS BEEN CHARGED WITH THE COMMIS-
16 SION OF A NEW CRIME.

17 (M) NOTICE THAT A PRISONER HAS BEEN RETURNED FROM PAROLE
18 STATUS TO A CORRECTIONAL FACILITY DUE TO AN ALLEGED VIOLATION OF
19 THE CONDITIONS OF HIS OR HER PAROLE.

20 (2) A victim's address and telephone number maintained by a
21 sheriff or the department of corrections ~~pursuant to~~ UPON a
22 request for notice under subsection (1) is exempt from disclosure
23 under the freedom of information act, ~~Act No. 442 of the Public~~
24 ~~Acts of 1976, being sections 15.231 to 15.246 of the Michigan~~
25 ~~Compiled Laws 1976 PA 442, MCL 15.231 TO 15.246.~~

26 Sec. 21. (1) A victim shall have the right to address or
27 submit a written statement for consideration by a parole board

1 member or a member of any other panel having authority over the
2 prisoner's release on parole.

3 (2) Not less than 30 days before a review of the prisoner's
4 release, a victim who has requested notice under section 19(1)(f)
5 shall be given written notice by the department of corrections
6 informing the victim of the pending review and of victims' rights
7 under this section. The victim, at his or her own expense, may
8 be represented by counsel at the review.

9 (3) A victim shall receive notice of the decision of the
10 board or panel and, if applicable, notice of the date of the
11 prisoner's release on parole. Notice shall be mailed within a
12 reasonable time after the board or panel reaches its decision but
13 not later than 14 days after the board or panel has reached its
14 decision. THE NOTICE SHALL INCLUDE A STATEMENT OF THE VICTIM'S
15 RIGHT TO APPEAL A PAROLE DECISION, AS ALLOWED UNDER SECTION 34(8)
16 OF 1953 PA 232, MCL 791.234.

17 Sec. 31. (1) ~~As~~ EXCEPT AS OTHERWISE DEFINED IN THIS ARTI-
18 CLE, AS used in this article:

19 (a) "County juvenile agency" means that term as defined in
20 section 2 of the county juvenile agency act.

21 (b) "Court" means the ~~juvenile~~ FAMILY division of ~~the~~
22 ~~probate~~ CIRCUIT court.

23 (C) "DESIGNATED CASE" MEANS A CASE DESIGNATED AS A CASE IN
24 WHICH THE JUVENILE IS TO BE TRIED IN THE SAME MANNER AS AN ADULT
25 UNDER SECTION 2D OF CHAPTER XIIIA OF 1939 PA 288, MCL 712A.2D.

26 (D) ~~(c)~~ "Juvenile" means an individual alleged or found to
27 be within the court's jurisdiction under section 2(a)(1) of

1 chapter XIIIA of 1939 PA 288, MCL 712A.2, for an offense,
2 INCLUDING, BUT NOT LIMITED TO, AN INDIVIDUAL IN A DESIGNATED
3 CASE.

4 (E) ~~(d)~~ "Juvenile facility" means a county facility, an
5 institution operated as an agency of the county or the court, or
6 an institution or agency described in the youth rehabilitation
7 services act, 1974 PA 150, MCL 803.301 to 803.309, to which a
8 juvenile has been committed or in which a juvenile is detained.

9 (F) ~~(e)~~ "Offense" means 1 or more of the following:

10 (i) A violation of a penal law of this state for which a
11 juvenile offender, if convicted as an adult, may be punished by
12 imprisonment for more than 1 year or an offense expressly desig-
13 nated by law as a felony.

14 (ii) A violation of section 81 (ASSAULT AND BATTERY, INCLUD-
15 ING DOMESTIC VIOLENCE), 81a (ASSAULT; INFLICTION OF SERIOUS
16 INJURY, INCLUDING AGGRAVATED DOMESTIC VIOLENCE), 115 (BREAKING
17 AND ENTERING OR ILLEGAL ENTRY), 136b(5) (CHILD ABUSE IN THE
18 FOURTH DEGREE), 145a (ENTICING A CHILD FOR IMMORAL PURPOSES), 234
19 (DISCHARGE OF A FIREARM INTENTIONALLY AIMED AT A PERSON), 235
20 (DISCHARGE OF AN INTENTIONALLY AIMED FIREARM RESULTING IN
21 INJURY), 335a (INDECENT EXPOSURE), or 411h (STALKING) of the
22 Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.115,
23 750.136b, 750.145a, 750.234, 750.235, 750.335a, and 750.411h.

24 (iii) A violation of section 617a (LEAVING THE SCENE OF A
25 PERSONAL INJURY ACCIDENT) of the Michigan vehicle code, 1949
26 PA 300, MCL 257.617a, or a violation of section 625 (OPERATING A
27 VEHICLE WHILE UNDER THE INFLUENCE OF OR IMPAIRED BY INTOXICATING

1 LIQUOR OR A CONTROLLED SUBSTANCE, OR WITH UNLAWFUL BLOOD ALCOHOL
2 CONTENT) of that act, MCL 257.625, if the violation involves an
3 accident resulting in damage to another individual's property or
4 physical injury or death to another individual.

5 (iv) Selling or furnishing alcoholic liquor to an individual
6 less than 21 years of age in violation of section 33 of the
7 former 1933 (Ex Sess) PA 8, or section 701 of the Michigan liquor
8 control code of 1998, 1998 PA 58, MCL 436.1701, if the violation
9 results in physical injury or death to any individual.

10 (v) A violation of section 80176(1) or (3) (OPERATING A
11 VESSEL WHILE UNDER THE INFLUENCE OF OR IMPAIRED BY INTOXICATING
12 LIQUOR OR A CONTROLLED SUBSTANCE, OR WITH UNLAWFUL BLOOD ALCOHOL
13 CONTENT) of the natural resources and environmental protection
14 act, 1994 PA 451, MCL 324.80176, if the violation involves an
15 accident resulting in damage to another individual's property or
16 physical injury or death to any individual.

17 (vi) A violation of a local ordinance substantially corre-
18 sponding to a law enumerated in subparagraphs (i) to (v).

19 (vii) A violation described in subparagraphs (i) to (vi)
20 that is subsequently reduced to a violation not included in sub-
21 paragraphs (i) to (vi).

22 (f) "Person" means an individual, organization, partnership,
23 corporation, or governmental entity.

24 (g) "Prosecuting attorney" means the prosecuting attorney
25 for a county, an assistant prosecuting attorney for a county, the
26 attorney general, the deputy attorney general, an assistant
27 attorney general, a special prosecuting attorney, or in

1 connection with the prosecution of an ordinance violation, an
2 attorney for the political subdivision that enacted the ordinance
3 upon which the violation is based.

4 (h) "Victim" ~~, except as otherwise defined in this~~
5 ~~article,~~ means any of the following:

6 (i) A person who suffers direct or threatened physical,
7 financial, or emotional harm as a result of the commission of an
8 offense, except as provided in subparagraph (ii), (iii), or
9 (iv).

10 (ii) The following individuals other than the juvenile if
11 the victim is deceased:

12 (A) The spouse of the deceased victim.

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

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

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

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

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

24 (iii) A parent, guardian, or custodian of a victim who is
25 less than 18 years of age AND WHO IS NOT THE DEFENDANT AND IS NOT
26 INCARCERATED, if the parent, guardian, or custodian so chooses.

1 (iv) A parent, guardian, or custodian of a victim who is
2 mentally or emotionally unable to participate in the legal
3 process IF HE OR SHE IS NOT THE DEFENDANT AND IS NOT
4 INCARCERATED.

5 (2) If a victim as defined in subsection (1)(h)(i) is physi-
6 cally or emotionally unable to exercise the privileges and rights
7 under this article, the victim may designate his or her spouse,
8 child 18 years of age or older, parent, sibling, ~~or~~
9 grandparent, OR ANY OTHER PERSON 18 YEARS OF AGE OR OLDER WHO IS
10 NOT THE DEFENDANT AND IS NOT INCARCERATED to act in his or her
11 place while the physical or emotional disability continues. The
12 victim shall provide the prosecuting attorney with the name of
13 the person who is to act in his or her place. During the physi-
14 cal or emotional disability, notices to be provided under this
15 article to the victim shall continue to be sent only to the
16 victim.

17 (3) AN INDIVIDUAL WHO IS CHARGED WITH AN OFFENSE ARISING OUT
18 OF THE SAME TRANSACTION FROM WHICH THE CHARGE AGAINST THE
19 DEFENDANT AROSE IS NOT ELIGIBLE TO EXERCISE THE PRIVILEGES AND
20 RIGHTS ESTABLISHED FOR VICTIMS UNDER THIS ARTICLE.

21 Sec. 32. Within 24 hours after the initial contact between
22 the victim of a reported offense and the law enforcement agency
23 having the responsibility for investigating that offense, that
24 agency shall give to the victim the following information in
25 writing:

26 (a) The availability of emergency and medical services, if
27 applicable.

1 (b) The availability of victim's compensation benefits and
2 the address of the crime victims compensation board.

3 (c) The address and telephone number of the prosecuting
4 attorney whom the victim should contact to obtain information
5 about victim's rights.

6 (d) The following ~~statement~~ STATEMENTS:

7 "IF YOU WOULD LIKE TO BE NOTIFIED OF AN ARREST IN YOUR CASE
8 OR THE RELEASE OF THE PERSON ARRESTED, OR BOTH, YOU SHOULD CALL
9 (IDENTIFY LAW ENFORCEMENT AGENCY AND TELEPHONE NUMBER) AND INFORM
10 THEM."

11 "If you are not notified of an arrest in your case, you may
12 call this law enforcement agency at [the law enforcement agency's
13 telephone number] for the status of the case.".

14 Sec. 35. (1) If the juvenile has been placed in a juvenile
15 facility, not later than 48 hours after the preliminary hearing
16 of that juvenile for a juvenile offense, the prosecuting attorney
17 or, pursuant to an agreement under section 48a, the court shall
18 give to the victim the telephone number of the juvenile facility
19 and notice that the victim may contact the juvenile facility to
20 determine whether the juvenile has been released from custody.
21 THE LAW ENFORCEMENT AGENCY HAVING RESPONSIBILITY FOR INVESTIGAT-
22 ING THE CRIME SHALL PROMPTLY NOTIFY THE VICTIM OF THE ARREST OR
23 PRETRIAL RELEASE OF THE DEFENDANT, OR BOTH, IF THE VICTIM
24 REQUESTS OR HAS REQUESTED THAT INFORMATION. IF THE DEFENDANT IS
25 RELEASED FROM CUSTODY BY THE SHERIFF OR JUVENILE FACILITY, THE
26 SHERIFF OR JUVENILE FACILITY SHALL NOTIFY THE LAW ENFORCEMENT
27 AGENCY HAVING RESPONSIBILITY FOR INVESTIGATING THE CRIME.

1 (2) Based upon any credible evidence of acts or threats of
2 physical violence or intimidation by the juvenile or at the
3 juvenile's direction against the victim or the victim's immediate
4 family, the prosecuting attorney may move that the juvenile be
5 detained in a juvenile facility.

6 Sec. 36. (1) THE COURT SHALL ACCEPT A PETITION SUBMITTED BY
7 A PROSECUTING ATTORNEY THAT SEEKS TO INVOKE THE COURT'S JURISDIC-
8 TION FOR A JUVENILE OFFENSE, UNLESS THE COURT FINDS ON THE RECORD
9 THAT THE PETITIONER'S ALLEGATIONS ARE INSUFFICIENT TO SUPPORT A
10 CLAIM OF JURISDICTION UNDER SECTION 2(A)(1) OF CHAPTER XIIA OF
11 THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.2.

12 (2) ~~(1)~~ Within 72 hours after the prosecuting attorney
13 files or submits a petition seeking to invoke the court's juris-
14 diction for an offense, the prosecuting attorney, or the court
15 pursuant to an agreement under section 48a, shall give to each
16 victim a written notice in plain English of each of the
17 following:

18 (a) A brief statement of the procedural steps in ~~the~~ pro-
19 cessing ~~of~~ a juvenile ~~offense~~ case, including the fact that a
20 juvenile may be TRIED IN THE SAME MANNER AS AN ADULT IN A DESIG-
21 NATED CASE OR waived to the court of general criminal
22 jurisdiction.

23 (b) A specific list of the rights and procedures under this
24 article.

25 (c) A CONVENIENT MEANS FOR THE VICTIM TO NOTIFY THE PROSE-
26 CUTING ATTORNEY THAT THE VICTIM CHOOSES TO EXERCISE HIS OR HER
27 RIGHTS UNDER THIS ARTICLE.

1 (D) ~~-(c)-~~ Details and eligibility requirements FOR
2 COMPENSATION FROM THE CRIME VICTIMS SERVICES COMMISSION under
3 1976 PA 223, MCL 18.351 to 18.368.

4 (E) ~~-(d)-~~ Suggested procedures if the victim is subjected to
5 threats or intimidation.

6 (F) ~~-(e)-~~ The person to contact for further information.

7 (3) ~~-(2)-~~ If the victim requests, the prosecuting attorney,
8 or the court pursuant to an agreement under section 48a, shall
9 give the victim notice of any scheduled court proceedings and any
10 changes in that schedule.

11 (4) ~~-(3)-~~ If the juvenile has not already entered a plea of
12 admission or no contest to the original charge at the preliminary
13 hearing, the prosecuting attorney shall offer the victim the
14 opportunity to consult with the prosecuting attorney to obtain
15 the victim's views about the disposition of the offense, includ-
16 ing the victim's views about dismissal, waiver, and pretrial
17 diversion programs, before finalizing any agreement to reduce the
18 original charge.

19 ~~-(4) Before placing a juvenile in a pretrial diversion pro-~~
20 ~~gram for committing a violation that if committed by an adult~~
21 ~~would be a crime or a serious misdemeanor, the court shall give~~
22 ~~the victim an opportunity to be heard regarding that placement.~~
23 ~~The victim has the right to make a statement at the hearing or~~
24 ~~submit a written statement, or both. As used in this~~
25 ~~subsection:~~

26 (a) ~~"Crime" means that term as defined in section 2.~~

1 ~~(b) "Serious misdemeanor" means that term as defined in~~
2 ~~section 61.~~

3 (5) A victim who receives a notice under subsection (1) and
4 chooses to receive any ~~other~~ notice OR EXERCISE ANY RIGHT under
5 this article shall keep the following persons informed of the
6 victim's current address and telephone number:

7 (a) The prosecuting attorney, or the court if an agreement
8 under section 48a exists.

9 (b) If the juvenile is made a public ward, the family inde-
10 pendence agency or county juvenile agency, as applicable.

11 (c) IF THE JUVENILE IS IMPRISONED, THE DEPARTMENT OF CORREC-
12 TIONS OR THE SHERIFF AS DIRECTED BY THE PROSECUTING ATTORNEY.

13 SEC. 36B. (1) EXCEPT FOR A DISMISSAL BASED UPON A JUDICIAL
14 FINDING ON THE RECORD THAT THE PETITION AND THE FACTS SUPPORTING
15 IT ARE INSUFFICIENT TO SUPPORT A CLAIM OF JURISDICTION UNDER SEC-
16 TION 2(A)(1) OF CHAPTER XIIIA OF THE PROBATE CODE OF 1939, 1939 PA
17 288, MCL 712A.2, A JUVENILE'S CASE SHALL NOT BE DIVERTED, PLACED
18 ON THE CONSENT CALENDAR, OR MADE SUBJECT TO ANY OTHER PREPETITION
19 OR PREADJUDICATION PROCEDURE THAT REMOVES THE CASE FROM THE ADJU-
20 DICATIVE PROCESS WITHOUT THE CONSENT OF THE PROSECUTING
21 ATTORNEY. BEFORE ANY FORMAL OR INFORMAL ACTION IS TAKEN, THE
22 VICTIM OF THE OFFENSE AS DEFINED IN SECTION 31 HAS THE RIGHT TO
23 TIMELY NOTICE, THE RIGHT TO CONSULT THE PROSECUTING ATTORNEY, THE
24 RIGHT TO ADDRESS THE JUDGE, AND THE RIGHT TO RESTITUTION. ALL
25 OTHER VICTIMS ARE ENTITLED TO RESTITUTION AS DEFINED IN SECTION
26 44.

1 (2) BEFORE FINALIZING ANY INFORMAL DISPOSITION,
2 PREADJUDICATION, OR EXPEDITED PROCEDURE, THE PROSECUTING ATTORNEY
3 SHALL OFFER THE VICTIM THE OPPORTUNITY TO CONSULT WITH THE PROSE-
4 CUTING ATTORNEY TO OBTAIN THE VIEWS OF THE VICTIM ABOUT THAT
5 MANNER OF DISPOSING OF THE CASE.

6 Sec. 38. (1) Based upon the victim's reasonable apprehen-
7 sion of acts or threats of physical violence or intimidation by
8 the juvenile or at the juvenile's direction against the victim or
9 the victim's immediate family, the prosecuting attorney may move
10 or, in the absence of a prosecuting attorney, the victim may
11 request that the victim or any other witness not be compelled to
12 testify at any court hearing for purposes of identifying the
13 victim as to the victim's address, place of employment, or other
14 personal identification without the victim's consent. A hearing
15 on the motion shall be in camera.

16 (2) PURSUANT TO SECTION 24 OF ARTICLE I OF THE STATE CONSTI-
17 TUTION OF 1963, GUARANTEEING TO CRIME VICTIMS THE RIGHT TO BE
18 TREATED WITH RESPECT FOR THEIR DIGNITY AND PRIVACY, ALL OF THE
19 FOLLOWING INFORMATION AND VISUAL REPRESENTATIONS OF A VICTIM ARE
20 EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976
21 PA 442, MCL 15.231 TO 15.246:

22 (A) THE NAME, HOME ADDRESS, HOME TELEPHONE NUMBER, WORK
23 ADDRESS, AND WORK TELEPHONE NUMBER OF THE VICTIM.

24 (B) A PICTURE, PHOTOGRAPH, DRAWING, OR OTHER VISUAL REPRE-
25 SENTATION, INCLUDING ANY FILM, VIDEOTAPE, OR DIGITALLY STORED
26 IMAGE, SHOWING THE VICTIM'S INTIMATE PARTS, OR SHOWING SEXUAL
27 CONTACT OR SEXUAL PENETRATION INVOLVING THE VICTIM. AS USED IN

1 THIS SUBDIVISION, "INTIMATE PARTS", "SEXUAL CONTACT", AND "SEXUAL
2 PENETRATION" HAVE THE MEANINGS GIVEN TO THOSE TERMS IN SECTION
3 520A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520A.

4 Sec. 39. The victim SHALL NOT BE SEQUESTERED AND has the
5 right to be present throughout the entire contested adjudicative
6 hearing, PRELIMINARY EXAMINATION, TRIAL, SENTENCING, or waiver
7 hearing of the juvenile ~~, unless the victim is going to be~~
8 ~~called as a witness~~ AND ALL OTHER COURT PROCEEDINGS THAT THE
9 JUVENILE HAS THE RIGHT TO ATTEND. ~~If the victim is going to be~~
10 ~~called as a witness, the court, for good cause shown, may order~~
11 ~~the victim to be sequestered until the victim first testifies.~~

12 Sec. 41. (1) The prosecuting attorney, or, pursuant to an
13 agreement under section 48a, the court, upon and in accordance
14 with the request of the victim, shall give ~~to~~ the victim notice
15 of ~~both~~ ALL of the following:

16 (a) The offenses for which the juvenile was adjudicated OR
17 CONVICTED.

18 (B) IF THE JUVENILE WAS CONVICTED OF AN OFFENSE IN A DESIG-
19 NATED CASE, ALL OF THE FOLLOWING:

20 (i) THE VICTIM'S RIGHT TO MAKE AN IMPACT STATEMENT FOR USE
21 IN PREPARING THE PRESENTENCE INVESTIGATION REPORT CONCERNING THE
22 JUVENILE.

23 (ii) THE ADDRESS AND TELEPHONE NUMBER OF THE OFFICE THAT IS
24 TO PREPARE THE PRESENTENCE INVESTIGATION REPORT.

25 (iii) THE FACT THAT THE PRESENTENCE INVESTIGATION REPORT AND
26 ANY STATEMENT OF THE VICTIM INCLUDED IN IT WILL BE MADE AVAILABLE
27 TO THE JUVENILE UNLESS EXEMPTED FROM DISCLOSURE BY THE COURT.

1 (C) ~~-(b)-~~ The victim's right to make ~~a written or oral~~ AN
2 impact statement at ~~a~~ THE disposition hearing OR SENTENCING.

3 (D) ~~-(c)-~~ The time and place of the disposition OR
4 SENTENCING proceeding.

5 (2) If ~~there is to be~~ a report OTHER THAN A PRESENTENCE
6 INVESTIGATION REPORT IS TO BE prepared for the ~~purpose of~~
7 JUVENILE'S disposition, ~~concerning the juvenile,~~ the person
8 preparing the report shall give notice to the victim of all of
9 the following:

10 (a) The victim's right to make ~~a written or oral~~ AN impact
11 statement for use in ~~the preparation of~~ PREPARING the report.

12 (b) The address and telephone number of the person who is to
13 prepare the report.

14 (c) ~~That~~ THE FACT THAT the report and any statement of the
15 victim included in the report will be made available to the juve-
16 nile unless exempted from disclosure by the court.

17 (3) A notice ~~given~~ under ~~subsections (1) and~~ SUBSECTION
18 (1) OR (2) shall inform the victim that his or her impact state-
19 ment may BE ORAL OR WRITTEN AND MAY include, but shall not be
20 limited to, ANY OF the following:

21 (a) An explanation of the nature and extent of any physical,
22 psychological, or emotional harm or trauma suffered by the
23 victim.

24 (b) An explanation of the extent of any economic loss or
25 property damage suffered by the victim.

1 (c) An opinion of the need for and extent of
2 restitution and whether the victim has applied for or received
3 compensation for loss or damage.

4 (d) The victim's recommendation for an appropriate disposi-
5 tion OR SENTENCE.

6 Sec. 41a. When a juvenile is ordered to be placed in a
7 juvenile facility OR SENTENCED TO A TERM OF IMPRISONMENT, the
8 prosecuting attorney, or the court pursuant to an agreement under
9 section 48a, shall provide the victim with a form the victim may
10 submit to receive the notices from the family independence agency
11 or county juvenile agency, as applicable, provided for under
12 section 48. The form shall include the address of the family
13 independence agency, ~~or~~ county juvenile agency, DEPARTMENT OF
14 CORRECTIONS, OR THE SHERIFF, AS APPLICABLE, to which the form may
15 be sent.

16 Sec. 42. (1) If ~~there is to be~~ a report IS TO BE prepared
17 for the ~~purpose of~~ JUVENILE'S disposition ~~concerning the~~
18 ~~juvenile~~ OR FOR A SENTENCING IN A PROCEEDING THAT IS A DESIG-
19 NATED CASE, the victim ~~shall be permitted~~ HAS THE RIGHT to
20 submit a written or oral impact statement to the person preparing
21 the report for THAT PERSON'S use ~~by that person~~ in ~~the prepa-~~
22 ~~ration of~~ PREPARING the report.

23 (2) IF NO PRESENTENCE REPORT IS PREPARED, THE COURT SHALL
24 NOTIFY THE PROSECUTING ATTORNEY OF THE DATE AND TIME OF SENTENC-
25 ING AT LEAST 10 DAYS PRIOR TO THE DISPOSITION OR SENTENCING.

26 (3) Upon the victim's request, a victim's written statement
27 UNDER THIS SECTION shall be included in the report.

1 Sec. 43. (1) The victim ~~shall have~~ HAS the right to
2 appear and make an oral impact statement at the JUVENILE'S dispo-
3 sition ~~of the juvenile~~ OR SENTENCING. IF THE VICTIM IS PHYSI-
4 CALLY OR EMOTIONALLY UNABLE TO MAKE THE ORAL IMPACT STATEMENT,
5 THE VICTIM MAY DESIGNATE ANY OTHER PERSON 18 YEARS OF AGE OR
6 OLDER WHO IS NOT THE DEFENDANT AND IS NOT SERVING A SENTENCE TO
7 MAKE THE STATEMENT ON HIS OR HER BEHALF. THE OTHER PERSON NEED
8 NOT BE AN ATTORNEY.

9 (2) Upon request, the victim shall be notified by the prose-
10 cuting attorney, or, pursuant to an agreement under section 48a,
11 the court of the disposition of the juvenile's offense not more
12 than ~~14~~ 30 days after the disposition is made.

13 Sec. 44. (1) For purposes of this section only:

14 (a) "Offense" means a violation of a penal law of this state
15 or a violation of an ordinance of a local unit of government of
16 this state punishable by imprisonment or by a fine that is not a
17 civil fine.

18 (b) "Victim" means an individual who suffers direct or
19 threatened physical, financial, or emotional harm as a result of
20 the commission of an offense. For purposes of subsections (2),
21 (3), (6), (8), (9), and (13), victim includes a sole proprietor-
22 ship, partnership, corporation, association, governmental entity,
23 or any other legal entity that suffers direct physical or finan-
24 cial harm as a result of an offense.

25 (2) Except as provided in subsection (8), at the disposi-
26 tional hearing OR SENTENCING for an offense, the court shall
27 order, in addition to or in lieu of any other disposition OR

1 PENALTY authorized by law, that the juvenile make full
2 restitution to any victim of the juvenile's course of conduct
3 that gives rise to the disposition OR CONVICTION or to the
4 victim's estate. FOR AN OFFENSE THAT IS RESOLVED INFORMALLY BY
5 MEANS OF A CONSENT CALENDAR DIVERSION OR ANY OTHER INFORMAL
6 METHOD THAT DOES NOT RESULT IN A DISPOSITIONAL HEARING, THE COURT
7 SHALL ORDER THE RESTITUTION REQUIRED UNDER THIS SECTION BEFORE
8 THE OFFENSE IS INFORMALLY RESOLVED.

9 (3) If an offense results in damage to or loss or destruc-
10 tion of property of a victim of the offense — or results in the
11 seizure or impoundment of property of a victim of the offense,
12 the order of restitution may require that the juvenile do 1 or
13 more of the following, as applicable:

14 (a) Return the property to the owner of the property or to a
15 person designated by the owner.

16 (b) If return of the property under subdivision (a) is
17 impossible, impractical, or inadequate, pay an amount equal to
18 the greater of subparagraph (i) or (ii), less the value, deter-
19 mined as of the date the property is returned, of that property
20 or any part of the property that is returned:

21 (i) The value of the property on the date of the damage,
22 loss, or destruction.

23 (ii) The value of the property on the date of disposition.

24 (c) Pay the costs of the seizure or impoundment, or both.

25 (4) If an offense results in physical or psychological
26 injury to a victim, the order of restitution may require that the
27 juvenile do 1 or more of the following, as applicable:

1 (a) Pay an amount equal to the cost of ~~actual~~ medical and
2 related professional services and devices ACTUALLY INCURRED AND
3 REASONABLY EXPECTED TO BE INCURRED relating to physical and psy-
4 chological care.

5 (b) Pay an amount equal to the cost of ~~actual~~ physical and
6 occupational therapy and rehabilitation ACTUALLY INCURRED AND
7 REASONABLY EXPECTED TO BE INCURRED.

8 (c) Reimburse the victim or the victim's estate for
9 after-tax income loss suffered by the victim as a result of the
10 offense OR, IF THE VICTIM IS LESS THAN 18 YEARS OF AGE OR IS
11 CLAIMED AS A DEPENDENT BY HIS OR HER PARENT OR GUARDIAN ON THE
12 PARENT'S OR GUARDIAN'S FEDERAL INCOME TAX RETURN, AFTER-TAX
13 INCOME LOSS SUFFERED BY THE VICTIM'S PARENT OR GUARDIAN AS A
14 RESULT OF THE OFFENSE.

15 (d) Pay an amount equal to the cost of psychological and
16 medical treatment for members of the victim's family ~~that has~~
17 ~~been~~ ACTUALLY incurred OR REASONABLY EXPECTED TO BE INCURRED as
18 a result of the offense.

19 (e) Pay an amount equal the costs of ~~actual~~ homemaking and
20 child care expenses ACTUALLY incurred OR REASONABLY EXPECTED TO
21 BE INCURRED as a result of the offense OR, IF HOMEMAKING OR CHILD
22 CARE IS PROVIDED WITHOUT COMPENSATION BY A RELATIVE, FRIEND, OR
23 ANY OTHER PERSON, AN AMOUNT EQUAL TO THE COSTS THAT WOULD REASON-
24 ABLY BE INCURRED AS A RESULT OF THE OFFENSE FOR THAT HOMEMAKING
25 AND CHILD CARE, BASED ON THE RATES IN THE AREA FOR COMPARABLE
26 SERVICES.

1 (F) ~~(5) If an offense resulting in bodily injury also~~
2 ~~results in the death of a victim, the order of restitution may~~
3 ~~require that the juvenile pay~~ PAY an amount equal to the cost of
4 actual funeral and related services.

5 (G) IF THE DECEASED VICTIM COULD BE CLAIMED AS A DEPENDENT
6 BY HIS OR HER PARENT OR GUARDIAN ON THE PARENT'S OR GUARDIAN'S
7 FEDERAL, STATE, OR LOCAL INCOME TAX RETURNS, PAY AN AMOUNT EQUAL
8 TO THE LOSS OF THE TAX DEDUCTION. THE AMOUNT OF REIMBURSEMENT
9 SHALL BE ESTIMATED FOR EACH YEAR THE VICTIM COULD REASONABLY BE
10 CLAIMED AS A DEPENDENT.

11 (5) IF AN OFFENSE RESULTING IN BODILY INJURY ALSO RESULTS IN
12 THE DEATH OF A VICTIM OR SERIOUS IMPAIRMENT OF A BODY FUNCTION OF
13 A VICTIM, THE COURT MAY ORDER UP TO 3 TIMES THE AMOUNT OF RESTI-
14 TUTION OTHERWISE ALLOWED UNDER THIS SECTION. AS USED IN THIS
15 SUBSECTION, "SERIOUS IMPAIRMENT OF A BODY FUNCTION OF A VICTIM"
16 INCLUDES, BUT IS NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

- 17 (A) LOSS OF A LIMB OR USE OF A LIMB.
18 (B) LOSS OF A HAND OR FOOT OR USE OF A HAND OR FOOT.
19 (C) LOSS OF AN EYE OR USE OF AN EYE OR EAR.
20 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.
21 (E) SERIOUS VISIBLE DISFIGUREMENT.
22 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.
23 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.
24 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.
25 (I) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.
26 (J) LOSS OF A BODY ORGAN.

1 (6) If the victim or victim's estate consents, the order of
2 restitution may require that the juvenile make restitution in
3 services in lieu of money.

4 (7) If the victim is deceased, the court shall order that
5 the restitution be made to the victim's estate.

6 (8) The court shall order restitution to the crime ~~victims~~
7 ~~compensation board~~ VICTIM SERVICES COMMISSION or to any individ-
8 uals, partnerships, corporations, associations, governmental
9 entities, or other legal entities that have compensated the
10 victim or the victim's estate for a loss incurred by the victim
11 to the extent of the compensation paid for that loss. The court
12 shall also order restitution for the costs of services provided
13 to persons or entities that have provided services to the victim
14 as a result of the offense. Services that are subject to resti-
15 tution under this subsection include, but are not limited to,
16 shelter, food, clothing, and transportation. However, an order
17 of restitution shall require that all restitution to a victim or
18 victim's estate under the order be made before any restitution to
19 any other person or entity under that order is made. The court
20 shall not order restitution to be paid to a victim or victim's
21 estate if the victim or victim's estate has received or is to
22 receive compensation for that loss, and the court shall state on
23 the record with specificity the reasons for its action. ~~If an~~
24 ~~entity entitled to restitution under this subsection for compen-~~
25 ~~sating the victim or the victim's estate cannot or refuses to be~~
26 ~~reimbursed for that compensation, the restitution paid for that~~

~~1 entity shall be deposited in the crime victim's rights assessment~~
~~2 fund or its successor fund.~~

3 (9) Any amount paid to a victim or victim's estate under an
4 order of restitution shall be set off against any amount later
5 recovered as compensatory damages by the victim or the victim's
6 estate in any federal or state civil proceeding and shall reduce
7 the amount payable to a victim or a victim's estate by an award
8 from the crime ~~victims compensation board~~ VICTIM SERVICES
9 COMMISSION made after an order of restitution under this
10 section.

11 (10) If not otherwise provided by the court under this sub-
12 section, restitution shall be made immediately. However, the
13 court may require that the juvenile make restitution under this
14 section within a specified period or in specified installments.

15 (11) If the juvenile is placed on probation, any restitution
16 ordered under this section shall be a condition of that
17 probation. The court may revoke probation if the juvenile fails
18 to comply with the order and if the juvenile has not made a good
19 faith effort to comply with the order. In determining whether to
20 revoke probation, the court shall consider the juvenile's employ-
21 ment status, earning ability, AND financial resources, the will-
22 fulness of the juvenile's failure to pay, and any other special
23 circumstances that may have a bearing on the juvenile's ability
24 to pay.

25 (12) A juvenile who is required to pay restitution and who
26 is not in willful default of the payment of the restitution may
27 at any time petition the court to modify the method of payment.

1 If the court determines that payment under the order will impose
2 a manifest hardship on the juvenile or his or her immediate
3 family, AND IF THE COURT ALSO DETERMINES THAT MODIFYING THE
4 METHOD OF PAYMENT WILL NOT IMPOSE A MANIFEST HARDSHIP ON THE
5 VICTIM, the court may modify the method of payment.

6 (13) An order of restitution entered under this section
7 remains effective until it is satisfied in full. An order of
8 restitution is a judgment and lien against all property of the
9 individual ordered to pay restitution for the amount specified in
10 the order of restitution. The lien may be recorded as provided
11 by law. An order of restitution may be enforced UPON THE COURT'S
12 OWN MOTION, OR by the prosecuting attorney, a victim, a victim's
13 estate, or any other person or entity named in the order to
14 receive the restitution in the same manner as a judgment in a
15 civil action or a lien.

16 (14) Notwithstanding any other provision of this section, a
17 juvenile shall not be detained OR IMPRISONED for a violation of
18 probation — or PAROLE OR otherwise — for failure to pay res-
19 titution as ordered under this section unless the court deter-
20 mines that the juvenile has the resources to pay the ordered res-
21 titution and has not made a good faith effort to do so.

22 (15) If the court determines that the juvenile is or will be
23 unable to pay all of the restitution ordered, after notice to the
24 juvenile's parent or parents and an opportunity for the parent or
25 parents to be heard, the court may order the parent or parents
26 having supervisory responsibility for the juvenile at the time of
27 the acts upon which an order of restitution is based to pay any

1 portion of the restitution ordered that is outstanding. An order
2 under this subsection does not relieve the juvenile of his or her
3 obligation to pay restitution as ordered, but the amount owed by
4 the juvenile shall be offset by any amount paid by his or her
5 parent. As used in this subsection, "parent" does not include a
6 foster parent.

7 (16) If the court orders a parent to pay restitution under
8 subsection (15), the court shall take into account the PARENT'S
9 financial resources ~~of the parent~~ and the burden that the pay-
10 ment of restitution will impose, with due regard to any other
11 moral or legal financial obligations ~~that~~ the parent may have.
12 If a parent is required to pay restitution under subsection (15),
13 the court shall provide for payment to be made in specified
14 installments and within a specified period of time.

15 (17) A parent who has been ordered to pay restitution under
16 subsection (15) may petition the court for a modification of the
17 amount of restitution owed by the parent or for a cancellation of
18 any unpaid portion of the parent's obligation. The court shall
19 cancel all or part of the parent's obligation due if the court
20 determines that payment of the amount due will impose a manifest
21 hardship on the parent AND IF THE COURT ALSO DETERMINES THAT MOD-
22 IFYING THE METHOD OF PAYMENT WILL NOT IMPOSE A MANIFEST HARDSHIP
23 ON THE VICTIM.

24 (18) In each case in which payment of restitution is ordered
25 as a condition of probation, the COURT SHALL ORDER ANY EMPLOYED
26 JUVENILE TO EXECUTE A WAGE ASSIGNMENT TO PAY THE RESTITUTION. IF
27 THE JUVENILE IS NOT CURRENTLY EMPLOYED, BUT BECOMES EMPLOYED

1 DURING THE PERIOD OF PROBATION, THE PROBATION OFFICER SHALL
2 ENSURE THAT THE JUVENILE EXECUTES A WAGE ASSIGNMENT. THE juve-
3 nile caseworker or probation officer assigned to the case shall
4 review the case not less than twice yearly to ensure that resti-
5 tution is being paid as ordered. IF THE RESTITUTION WAS ORDERED
6 TO BE MADE IMMEDIATELY, THE JUVENILE CASEWORKER OR PROBATION
7 OFFICER ASSIGNED TO THE CASE SHALL REVIEW THE CASE NOT LESS THAN
8 3 MONTHS AFTER THE RESTITUTION WAS ORDERED TO DETERMINE IF THE
9 RESTITUTION HAS BEEN PAID IN FULL. The final review shall be con-
10 ducted not less than 60 days before the ~~expiration of the~~ pro-
11 bationary period EXPIRES. If the juvenile caseworker or proba-
12 tion officer determines AT ANY REVIEW the restitution is not
13 being paid as ordered, the juvenile caseworker or probation offi-
14 cer shall file a written report of the violation with the court
15 on a form prescribed by the state court administrative office.
16 The report shall include a statement of the amount of the arrear-
17 age, and any reasons for the arrearage ~~that are~~ known by the
18 juvenile caseworker or probation officer. The juvenile case-
19 worker or probation officer shall immediately provide a copy of
20 the report to the prosecuting attorney. ~~If a motion is filed or~~
21 ~~other proceedings are initiated to enforce payment of restitution~~
22 ~~and~~ UPON RECEIPT OF THE REPORT, THE COURT SHALL CONDUCT A HEAR-
23 ING, AND IF the court determines that restitution is not being
24 paid or has not been paid as ordered by the court, the court
25 shall promptly take action necessary to compel compliance.

26 (19) If the court determines that an individual who is
27 ordered to pay restitution under this section is remanded to the

1 jurisdiction of the department of corrections, the court shall
2 provide a copy of the order of restitution to the department of
3 corrections when the court determines that the individual is
4 remanded to the department's jurisdiction.

5 (20) THE COURT SHALL NOT IMPOSE A FEE ON A VICTIM, VICTIM'S
6 ESTATE, OR PROSECUTING ATTORNEY FOR ENFORCING AN ORDER OF
7 RESTITUTION.

8 (21) IF A PERSON OR ENTITY ENTITLED TO RESTITUTION CANNOT BE
9 LOCATED OR REFUSES TO CLAIM THAT RESTITUTION WITHIN 2 YEARS AFTER
10 THE DATE ON WHICH HE OR SHE COULD HAVE CLAIMED THE RESTITUTION,
11 THE RESTITUTION PAID TO THAT PERSON OR ENTITY SHALL BE DEPOSITED
12 IN THE CRIME VICTIM'S RIGHTS FUND CREATED UNDER SECTION 4 OF 1989
13 PA 196, MCL 780.904, OR ITS SUCCESSOR FUND. HOWEVER, A PERSON OR
14 ENTITY ENTITLED TO THAT RESTITUTION MAY CLAIM THAT RESTITUTION AT
15 ANY TIME BY APPLYING TO THE CRIME VICTIM SERVICES COMMISSION IN
16 THE MANNER PROVIDED BY LAW.

17 SEC. 44A. (1) IF A PERSON IS SUBJECT TO ANY COMBINATION OF
18 FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
19 SUPERVISION FEES, OR OTHER PAYMENTS ARISING OUT OF THE SAME CRIM-
20 INAL PROCEEDING, MONEY COLLECTED FROM THAT PERSON FOR THE PAYMENT
21 OF FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
22 SUPERVISION FEES, OR OTHER PAYMENTS SHALL BE ALLOCATED AS PRO-
23 VIDED IN THIS SECTION.

24 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF A
25 PERSON IS SUBJECT TO PAYMENT OF VICTIM PAYMENTS AND ANY COMBINA-
26 TION OF OTHER FINES, COSTS, ASSESSMENTS, PROBATION OR PAROLE
27 SUPERVISION FEES, OR OTHER PAYMENTS, 50% OF EACH PAYMENT

1 COLLECTED BY THE COURT FROM THAT PERSON SHALL BE APPLIED TO
2 PAYMENT OF VICTIM PAYMENTS, AND THE BALANCE SHALL BE APPLIED TO
3 PAYMENT OF FINES, COSTS, SUPERVISION FEES, AND OTHER ASSESSMENTS
4 OR PAYMENTS. IF ANY FINES, COSTS, SUPERVISION FEES, OR OTHER
5 ASSESSMENTS OR PAYMENTS REMAIN UNPAID AFTER ALL OF THE VICTIM
6 PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COLLECTED SHALL BE
7 APPLIED TO PAYMENT OF THOSE FINES, COSTS, SUPERVISION FEES, OR
8 OTHER ASSESSMENTS OR PAYMENTS. IF ANY VICTIM PAYMENTS REMAIN
9 UNPAID AFTER ALL OF THE FINES, COSTS, SUPERVISION FEES, OR OTHER
10 ASSESSMENTS OR PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COL-
11 LECTED SHALL BE APPLIED TOWARD PAYMENT OF THOSE VICTIM PAYMENTS.

12 (3) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF STATE
13 LAW, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF FINES,
14 COSTS, PROBATION AND PAROLE SUPERVISION FEES, AND ASSESSMENTS OR
15 PAYMENTS OTHER THAN VICTIM PAYMENTS SHALL BE APPLIED IN THE FOL-
16 LOWING ORDER OF PRIORITY:

17 (A) PAYMENT OF COSTS.

18 (B) PAYMENT OF FINES.

19 (C) PAYMENT OF PROBATION OR PAROLE SUPERVISION FEES.

20 (D) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS.

21 (4) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF LOCAL
22 ORDINANCES, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF
23 FINES, COSTS, AND ASSESSMENTS OR PAYMENTS OTHER THAN VICTIM PAY-
24 MENTS SHALL BE APPLIED IN THE FOLLOWING ORDER OF PRIORITY:

25 (A) PAYMENT OF FINES AND COSTS.

26 (B) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS.

1 (5) AS USED IN THIS SECTION, "VICTIM PAYMENT" MEANS
2 RESTITUTION ORDERED TO BE PAID TO THE VICTIM, TO THE VICTIM'S
3 ESTATE, OR TO A PERSON WHO REIMBURSED THE VICTIM FOR HIS OR HER
4 LOSS, OR AN ASSESSMENT ORDERED UNDER SECTION 5 OF 1989 PA 196,
5 MCL 780.905.

6 Sec. 46. (1) Upon the request of the victim, the prosecut-
7 ing attorney shall notify the victim of the following:

8 (a) That the juvenile ~~has~~ filed an appeal of his or her
9 adjudication, CONVICTION, DISPOSITION, OR SENTENCE OR THE PROSE-
10 CUTING ATTORNEY FILED AN APPEAL.

11 (b) Whether the juvenile has been ordered released on bail
12 or other recognizance pending the disposition of the appeal. If
13 the prosecuting attorney is notified that the juvenile has been
14 ordered released on bail or other recognizance pending disposi-
15 tion of the appeal, the prosecuting attorney shall use any means
16 reasonably calculated to give the victim notice of that order
17 within 24 hours after the prosecuting attorney is notified of the
18 order.

19 (c) The time and place of any appellate court proceedings
20 and any changes in the time or place of those proceedings.

21 (d) The result of the appeal. If the prosecuting attorney
22 is notified that the disposition OR CONVICTION is ~~ordered~~
23 reversed, ~~or~~ THE SENTENCE IS VACATED, the case is remanded for
24 further proceedings OR A NEW TRIAL, OR THE PROSECUTING ATTORNEY'S
25 APPEAL IS DENIED, the prosecuting attorney shall use any means
26 reasonably calculated to give the victim notice of that order
27 within 24 hours after the prosecuting attorney is notified of the

1 order. NOT LATER THAN 48 HOURS BEFORE RELEASING AN OPINION OR
2 ORDER THAT REVERSES A JUVENILE'S ADJUDICATION OR CONVICTION,
3 VACATES AN ORDER OF DISPOSITION OR A SENTENCE, REMANDS A CASE TO
4 THE COURT FOR FURTHER PROCEEDINGS OR A NEW TRIAL, OR DENIES A
5 PROSECUTING ATTORNEY'S APPEAL, THE CLERK OF THE APPELLATE COURT
6 SHALL PROVIDE THE PROSECUTING ATTORNEY OF RECORD WITH A COPY OF
7 THAT ORDER OR OPINION.

8 (2) If the prosecuting attorney is not successful in notify-
9 ing the victim of an event described in subsection (1) within the
10 period set forth in that subsection, ~~for notification,~~ the
11 prosecuting attorney shall notify the victim of that event as
12 soon as possible by any means reasonably calculated to give the
13 victim prompt actual notice.

14 (3) Upon the request of the victim, the prosecuting attorney
15 shall provide the victim with a brief explanation in plain
16 English of the appeal process, including the possible
17 dispositions.

18 (4) ~~In the event the juvenile's adjudication or order of~~
19 ~~disposition is reversed and~~ IF the case is returned to the
20 ~~trial~~ court for further proceedings OR A NEW TRIAL, the victim
21 ~~shall have~~ HAS the same rights AS previously requested during
22 the proceedings ~~which~~ THAT led to the appeal.

23 Sec. 46a. (1) If a juvenile applies to have an adjudication
24 for an offense that if committed by an adult would be an assault-
25 ive crime or a serious misdemeanor set aside under section 18e of
26 chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
27 ~~section 712A.18e of the Michigan Compiled Laws, and if the name~~

1 ~~of the victim is known by~~ 1939 PA 288, MCL 712A.18E, AND the
2 prosecuting attorney KNOWS THE VICTIM'S NAME, the prosecuting
3 attorney shall give ~~to~~ the victim of the offense written notice
4 of the application and forward a copy of the application to the
5 victim. ~~The notice shall be by first-class mail to the victim's~~
6 ~~last known address.~~ The victim has the right to appear at any
7 proceeding under section 18e of chapter XIIA of ~~Act No. 288 of~~
8 ~~the Public Acts of 1939~~ 1939 PA 288, MCL 712A.18E, concerning
9 that adjudication and make a written or oral statement.

10 (2) IF A JUVENILE APPLIES TO HAVE A CONVICTION FOR AN
11 ASSAULTIVE CRIME OR SERIOUS MISDEMEANOR SET ASIDE UNDER 1965
12 PA 213, MCL 780.621 TO 780.624, AND THE PROSECUTING ATTORNEY
13 KNOWS THE VICTIM'S NAME, THE PROSECUTING ATTORNEY SHALL GIVE THE
14 VICTIM OF THE ASSAULTIVE CRIME OR SERIOUS MISDEMEANOR WRITTEN
15 NOTICE OF THE APPLICATION AND FORWARD A COPY OF THE APPLICATION
16 TO THE VICTIM. THE VICTIM HAS THE RIGHT TO APPEAR AT ANY PRO-
17 CEEDING UNDER 1965 PA 213, MCL 780.621 TO 780.624, CONCERNING
18 THAT CONVICTION AND MAKE AN ORAL OR WRITTEN STATEMENT.

19 (3) NOTICE UNDER THIS SECTION SHALL BE BY FIRST-CLASS MAIL
20 TO THE VICTIM'S LAST KNOWN ADDRESS.

21 (4) As used in this section:

22 (a) "Assaultive crime" means that term as defined in
23 section 9a of chapter X of the code of criminal procedure, ~~Act~~
24 ~~No. 175 of the Public Acts of 1927, being section 770.9a of the~~
25 ~~Michigan Compiled Laws~~ 1927 PA 175, MCL 770.9A.

26 (b) "Serious misdemeanor" means that term as defined in
27 section 61.

1 Sec. 48. (1) Upon the victim's written request, the court
2 or the family independence agency or county juvenile agency, as
3 applicable, shall make a good faith effort to notify the victim
4 before any of the following occurs:

5 (a) The juvenile is dismissed from court jurisdiction or
6 discharged from commitment to the family independence agency or
7 county juvenile agency.

8 (b) The juvenile is transferred from a ~~secure~~ juvenile
9 facility to ~~a nonsecure~~ ANY OTHER juvenile facility.

10 (c) The juvenile has his or her name legally changed while
11 under the court's jurisdiction or within 2 years after discharge
12 from the court's jurisdiction.

13 (D) THE JUVENILE IS DETAINED FOR HAVING COMMITTED AN ACT
14 WHICH, IF COMMITTED BY AN ADULT, WOULD BE A CRIMINAL VIOLATION.

15 (2) If the court, family independence agency, or county
16 juvenile agency is not successful in notifying the victim before
17 an event described in subsection (1)(a), (b), or (c) occurs, it
18 shall notify the victim as soon as possible after that event
19 occurs.

20 (3) Upon the victim's written request, the family indepen-
21 dence agency, county juvenile agency, or court shall give to the
22 victim notice of a juvenile's escape from a secure detention or
23 treatment facility. A victim who requests notice of an escape
24 shall be given immediate notice of the escape by any means rea-
25 sonably calculated to give prompt actual notice.

26 (4) UPON THE VICTIM'S WRITTEN REQUEST, THE SHERIFF OR THE
27 DEPARTMENT OF CORRECTIONS SHALL MAIL TO THE VICTIM THE FOLLOWING,

1 AS APPLICABLE, ABOUT A JUVENILE WHO HAS BEEN SENTENCED TO
2 IMPRISONMENT UNDER THE JURISDICTION OF THE SHERIFF OR THE DEPART-
3 MENT FOR THE OFFENSE AGAINST THAT VICTIM:

4 (A) WITHIN 30 DAYS AFTER THE REQUEST, NOTICE OF THE
5 SHERIFF'S CALCULATION OF THE JUVENILE'S EARLIEST RELEASE DATE OR
6 THE DEPARTMENT'S CALCULATION OF THE JUVENILE'S EARLIEST PAROLE
7 ELIGIBILITY, WITH ALL POTENTIAL GOOD TIME OR DISCIPLINARY CREDITS
8 CONSIDERED, IF THE SENTENCE OF IMPRISONMENT EXCEEDS 90 DAYS. THE
9 VICTIM MAY REQUEST 1-TIME ONLY NOTICE OF THE CALCULATION
10 DESCRIBED IN THIS SUBDIVISION.

11 (B) NOTICE OF THE JUVENILE'S TRANSFER OR PENDING TRANSFER TO
12 A MINIMUM SECURITY FACILITY AND THE FACILITY'S ADDRESS.

13 (C) NOTICE OF THE JUVENILE'S RELEASE OR PENDING RELEASE IN A
14 COMMUNITY RESIDENTIAL PROGRAM, UNDER FURLOUGH, OR ANY OTHER
15 TRANSFER TO COMMUNITY STATUS; ANY TRANSFER FROM 1 COMMUNITY RESI-
16 DENTIAL PROGRAM OR ELECTRONIC MONITORING PROGRAM TO ANOTHER; OR
17 ANY TRANSFER FROM A COMMUNITY RESIDENTIAL PROGRAM OR ELECTRONIC
18 MONITORING PROGRAM TO A STATE CORRECTIONAL FACILITY.

19 (D) NOTICE OF THE ESCAPE OF THE PERSON ACCUSED, CONVICTED,
20 OR IMPRISONED FOR COMMITTING AN OFFENSE AGAINST THE VICTIM.

21 (E) NOTICE OF THE VICTIM'S RIGHT TO ADDRESS OR SUBMIT A
22 WRITTEN STATEMENT FOR CONSIDERATION BY A PAROLE BOARD MEMBER OR A
23 MEMBER OF ANY OTHER PANEL HAVING AUTHORITY OVER THE JUVENILE'S
24 RELEASE ON PAROLE.

25 (F) NOTICE OF THE DECISION OF THE PAROLE BOARD, OR ANY OTHER
26 PANEL HAVING AUTHORITY OVER THE JUVENILE'S RELEASE ON PAROLE,
27 AFTER A PAROLE REVIEW.

1 (G) NOTICE OF THE RELEASE OF A JUVENILE 90 DAYS BEFORE THE
2 DATE OF THE JUVENILE'S DISCHARGE FROM PRISON, UNLESS THE NOTICE
3 HAS BEEN OTHERWISE PROVIDED UNDER THIS ARTICLE.

4 (H) NOTICE OF A PUBLIC HEARING UNDER SECTION 44 OF 1953
5 PA 232, MCL 791.244, REGARDING A REPRIEVE, COMMUTATION, OR PARDON
6 OF THE JUVENILE'S SENTENCE BY THE GOVERNOR.

7 (I) NOTICE THAT A REPRIEVE, COMMUTATION, OR PARDON HAS BEEN
8 GRANTED.

9 (J) NOTICE THAT A JUVENILE HAS HAD HIS OR HER NAME LEGALLY
10 CHANGED WHILE ON PAROLE OR WITHIN 2 YEARS AFTER RELEASE FROM
11 PAROLE.

12 (5) A VICTIM'S ADDRESS AND TELEPHONE NUMBER MAINTAINED BY A
13 SHERIFF OR THE DEPARTMENT OF CORRECTIONS UPON A REQUEST FOR
14 NOTICE UNDER SUBSECTION (4) IS EXEMPT FROM DISCLOSURE UNDER THE
15 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

16 (6) AS PROVIDED IN SUBSECTION (7) OR (8), A VICTIM WHO
17 REQUESTS NOTICE OF THE ESCAPE AND THE PROSECUTING ATTORNEY WHO
18 FILED THE PETITION ALLEGING THE OFFENSE FOR WHICH THE JUVENILE IS
19 ACCUSED, DETAINED, OR UNDER SENTENCE SHALL BE GIVEN IMMEDIATE
20 NOTICE OF THE JUVENILE'S ESCAPE. THE NOTICE SHALL BE GIVEN BY
21 ANY MEANS REASONABLY CALCULATED TO GIVE PROMPT ACTUAL NOTICE.

22 (7) IF THE ESCAPE OCCURS BEFORE THE SENTENCE IS EXECUTED OR
23 BEFORE THE JUVENILE IS DELIVERED TO THE FAMILY INDEPENDENCE
24 AGENCY, COUNTY JUVENILE AGENCY, SHERIFF, OR THE DEPARTMENT OF
25 CORRECTIONS, THE PERSON IN CHARGE OF THE AGENCY IN CHARGE OF THE
26 JUVENILE'S DETENTION SHALL GIVE NOTICE OF THE ESCAPE TO THE

1 PROSECUTING ATTORNEY, WHO SHALL THEN GIVE NOTICE OF THE ESCAPE TO
2 A VICTIM WHO REQUESTED NOTICE.

3 (8) IF THE JUVENILE IS CONFINED UNDER SENTENCE, THE NOTICE
4 SHALL BE GIVEN BY THE CHIEF ADMINISTRATOR OF THE PLACE IN WHICH
5 THE JUVENILE IS CONFINED.

6 (9) ~~-(4)-~~ Upon the victim's request, the prosecuting attor-
7 ney shall give the victim notice of a review hearing conducted
8 under section 18 of chapter XIIIA of 1939 PA 288, MCL 712A.18.
9 The victim has the right to make a statement at the hearing or
10 submit a written statement for use at the hearing, or both.

11 Sec. 61. (1) ~~As~~ EXCEPT AS OTHERWISE DEFINED IN THIS ARTI-
12 CLE, AS used in this article:

13 (a) "Serious misdemeanor" means 1 or more of the following:

14 (i) A violation of section 81 of the Michigan penal code,
15 ~~Act No. 328 of the Public Acts of 1931, being section 750.81 of~~
16 ~~the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.81, assault and
17 battery, INCLUDING DOMESTIC VIOLENCE.

18 (ii) A violation of section 81a of ~~Act No. 328 of the~~
19 ~~Public Acts of 1931, being section 750.81a of the Michigan~~
20 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81A,
21 assault; infliction of serious injury, INCLUDING AGGRAVATED
22 DOMESTIC VIOLENCE.

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

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

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

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

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

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

21 (ix) A violation of section 617a of the Michigan vehicle
22 code, ~~Act No. 300 of the Public Acts of 1949, being section~~
23 ~~257.617a of the Michigan Compiled Laws~~ 1949 PA 300,
24 MCL 257.617A, leaving the scene of a personal injury accident.

25 (x) A violation of section 625 of ~~Act No. 300 of the Public~~
26 ~~Acts of 1949, being section 257.625 of the Michigan Compiled~~
27 ~~Laws~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.625,

1 operating a vehicle while under the influence of or impaired by
2 intoxicating liquor or a controlled substance, or with an unlaw-
3 ful blood alcohol content, if the violation involves an accident
4 resulting in damage to another individual's property or physical
5 injury or death to another individual.

6 (xi) Selling or furnishing alcoholic liquor to an individual
7 less than 21 years of age in violation of section ~~33~~ 701 of the
8 Michigan liquor control ~~act, Act No. 8 of the Extra Session of~~
9 ~~the Public Acts of 1933, being section 436.33 of the Michigan~~
10 ~~Compiled Laws~~ CODE OF 1998, 1998 PA 58, MCL 436.1701, if the
11 violation results in physical injury or death to any individual.

12 (xii) A violation of section 411h of ~~Act No. 328 of the~~
13 ~~Public Acts of 1931, being section 750.411h of the Michigan~~
14 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328,
15 MCL 750.411H, stalking.

16 (xiii) A violation of section ~~80176 of part 801 (marine~~
17 ~~safety)~~ 80176(1) OR (3) of the natural resources and environmen-
18 tal protection act, ~~Act No. 451 of the Public Acts of 1994,~~
19 ~~being section 324.80176 of the Michigan Compiled Laws~~ 1994
20 PA 451, MCL 324.80176, operating a vessel while under the influ-
21 ence of or impaired by intoxicating liquor or a controlled sub-
22 stance, or with an unlawful blood alcohol content, if the viola-
23 tion involves an accident resulting in damage to another
24 individual's property or physical injury or death to any
25 individual.

1 (xiv) A violation of a local ordinance substantially
2 corresponding to a violation enumerated in subparagraphs (i) to
3 (xiii).

4 (xv) A violation charged as a crime or serious misdemeanor
5 ENUMERATED IN SUBPARAGRAPHS (i) TO (xiv) but subsequently reduced
6 to or pleaded to as a misdemeanor. As used in this subparagraph,
7 "crime" means that term as defined in section 2.

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

10 (c) "Final disposition" means the ultimate termination of
11 the criminal prosecution of a defendant including, but not
12 limited to, dismissal, acquittal, or imposition of a sentence by
13 the court.

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

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

19 (f) "Prosecuting attorney" means the prosecuting attorney
20 for a county, an assistant prosecuting attorney for a county, the
21 attorney general, the deputy attorney general, an assistant
22 attorney general, a special prosecuting attorney, or, in connec-
23 tion with the prosecution of an ordinance violation, an attorney
24 for the political subdivision that enacted the ordinance upon
25 which the violation is based.

26 (g) "Victim" ~~, except as otherwise defined in this~~
27 ~~article,~~ means any of the following:

1 (i) An individual who suffers direct or threatened physical,
2 financial, or emotional harm as a result of the commission of a
3 serious misdemeanor, except as provided in subparagraph (ii),
4 (iii), or (iv).

5 (ii) The following individuals other than the defendant if
6 the victim is deceased:

7 (A) The spouse of the deceased victim.

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

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

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

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

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

19 (iii) A parent, guardian, or custodian of a victim who is
20 less than 18 years of age AND WHO IS NOT THE DEFENDANT AND IS NOT
21 INCARCERATED, if the parent, guardian, or custodian so chooses.

22 (iv) A parent, guardian, or custodian of a victim who is so
23 mentally incapacitated that he or she cannot meaningfully under-
24 stand or participate in the legal process IF HE OR SHE IS NOT THE
25 DEFENDANT AND IS NOT INCARCERATED.

26 (2) If a victim as defined in subsection (1)(g)(i) is
27 physically or emotionally unable to exercise the privileges and

1 rights under this article, the victim may designate his or her
2 spouse, ~~or a~~ child 18 years of age or older, parent, sibling,
3 or grandparent ~~of the victim~~ OR ANY OTHER PERSON 18 YEARS OF
4 AGE OR OLDER WHO IS NOT THE DEFENDANT AND IS NOT INCARCERATED to
5 act in HIS OR HER place ~~of the victim during the duration of~~
6 WHILE the physical or emotional disability CONTINUES. The victim
7 shall provide the prosecuting attorney with the name of the
8 person who is to act in place of the victim. During the physical
9 or emotional disability, notices to be provided under this arti-
10 cle to the victim shall continue to be sent only to the victim.

11 (3) An individual who is charged with a serious misdemeanor,
12 ~~or~~ a crime as defined in section 2, OR AN OFFENSE AS DEFINED IN
13 SECTION 31 arising out of the same transaction from which the
14 charge against the defendant arose is not eligible to exercise
15 the privileges and rights established for victims under this
16 article.

17 (4) AN INDIVIDUAL WHO IS INCARCERATED IS NOT ELIGIBLE TO
18 EXERCISE THE PRIVILEGES AND RIGHTS ESTABLISHED FOR VICTIMS UNDER
19 THIS ARTICLE EXCEPT THAT HE OR SHE MAY SUBMIT A WRITTEN STATEMENT
20 TO THE COURT.

21 Sec. 63. (1) Within 24 hours after the initial contact
22 between the victim of a reported serious misdemeanor and the law
23 enforcement agency having the responsibility for investigating
24 that serious misdemeanor, that agency shall give to the victim
25 the following information in writing:

26 (a) The availability of emergency and medical services, if
27 applicable.

1 (b) The availability of victim's compensation benefits and
2 the address of the crime victims compensation board.

3 (c) The address and telephone number of the prosecuting
4 attorney whom the victim should contact to obtain information
5 about victim's rights.

6 (d) The following ~~statement~~ STATEMENTS:

7 "IF YOU WOULD LIKE TO BE NOTIFIED OF AN ARREST IN YOUR CASE
8 OR THE RELEASE OF THE PERSON ARRESTED, OR BOTH, YOU SHOULD CALL
9 (IDENTIFY LAW ENFORCEMENT AGENCY AND TELEPHONE NUMBER) AND INFORM
10 THEM."

11 "If you are not notified of an arrest in your case, you may
12 call this law enforcement agency at [the law enforcement agency's
13 telephone number] for the status of the case.".

14 (2) IF THE CASE AGAINST THE DEFENDANT IS BROUGHT UNDER A
15 LOCAL ORDINANCE, THE LAW ENFORCEMENT AGENCY HAVING RESPONSIBILITY
16 FOR INVESTIGATING THE SERIOUS MISDEMEANOR SHALL GIVE TO THE
17 VICTIM THE NAME AND BUSINESS ADDRESS OF THE LOCAL PROSECUTING
18 ATTORNEY FOR THE POLITICAL SUBDIVISION RESPONSIBLE FOR PROSECUT-
19 ING THE CASE ALONG WITH THE FOLLOWING STATEMENT:

20 "THE DEFENDANT IN YOUR CASE WILL BE PROSECUTED UNDER A LOCAL
21 ORDINANCE, RATHER THAN A STATE STATUTE. NONETHELESS, YOU HAVE
22 ALL THE RIGHTS AND PRIVILEGES AFFORDED TO VICTIMS UNDER THE STATE
23 CONSTITUTION AND THE STATE CRIME VICTIM'S RIGHTS ACT.".

24 Sec. 65. (1) Not later than 72 hours after the arrest of
25 the defendant for a serious misdemeanor, the law enforcement
26 agency having responsibility for investigating the serious
27 misdemeanor shall give to the victim notice of the availability

1 of pretrial release for the defendant, the phone number of the
2 sheriff, and notice that the victim may contact the sheriff to
3 determine whether the defendant has been released from custody.
4 THE LAW ENFORCEMENT AGENCY HAVING RESPONSIBILITY FOR INVESTIGAT-
5 ING THE CRIME SHALL PROMPTLY NOTIFY THE VICTIM OF THE ARREST OR
6 PRETRIAL RELEASE OF THE DEFENDANT, OR BOTH, IF THE VICTIM
7 REQUESTS OR HAS REQUESTED THAT INFORMATION. IF THE DEFENDANT IS
8 RELEASED FROM CUSTODY BY THE SHERIFF, THE SHERIFF SHALL NOTIFY
9 THE LAW ENFORCEMENT AGENCY HAVING RESPONSIBILITY FOR INVESTIGAT-
10 ING THE CRIME.

11 (2) If the victim submits an affidavit asserting acts or
12 threats of physical violence or intimidation by the defendant or
13 at the defendant's direction against the victim or the victim's
14 immediate family, the prosecuting attorney, based on the victim's
15 affidavit, may move that the bond or personal recognizance of a
16 defendant be revoked.

17 Sec. 66. (1) If a plea of guilty or nolo contendere is
18 accepted by the court at the time of the arraignment of the
19 defendant for a serious misdemeanor, the court shall notify the
20 prosecuting attorney of the plea and the date of sentencing
21 within 48 hours after the arraignment. If no guilty or nolo con-
22 tendere plea is accepted at the arraignment and further proceed-
23 ings will be scheduled, the court shall so notify the prosecuting
24 attorney within 48 hours after the arraignment. A notice to the
25 prosecuting attorney under this subsection shall be on a separate
26 form and shall include the name, address, and telephone number of
27 the victim. The notice shall not be a matter of public record.

1 Within 48 hours after receiving this notice, the prosecuting
2 attorney shall give to each victim a written notice in plain
3 English of each of the following:

4 (a) A brief statement of the procedural steps in the pro-
5 cessing of a misdemeanor case, including pretrial conferences.

6 (b) A specific list of the rights and procedures under this
7 article.

8 (C) A CONVENIENT MEANS FOR THE VICTIM TO NOTIFY THE PROSE-
9 CUTING ATTORNEY THAT THE VICTIM CHOOSES TO EXERCISE HIS OR HER
10 RIGHTS UNDER THIS ARTICLE.

11 (D) ~~-(c)-~~ Details and eligibility requirements FOR COMPENSA-
12 TION FROM THE CRIME VICTIMS SERVICES COMMISSION under ~~Act~~
13 ~~No. 223 of the Public Acts of 1976, being sections 18.351 to~~
14 ~~18.368 of the Michigan Compiled Laws~~ 1976 PA 223, MCL 18.351 TO
15 18.368.

16 (E) ~~-(d)-~~ Suggested procedures if the victim is subjected to
17 threats or intimidation.

18 (F) ~~-(e)-~~ The person to contact for further information.

19 (2) If requested by the victim, the prosecuting attorney
20 shall give to the victim notice of any scheduled court proceed-
21 ings and notice of any changes in that schedule.

22 (3) If the defendant has not already entered a plea of
23 guilty or nolo contendere at the arraignment, the prosecuting
24 attorney shall offer the victim the opportunity to consult with
25 the prosecuting attorney to obtain the views of the victim about
26 the disposition of the serious misdemeanor, including the
27 victim's views about dismissal, plea or sentence negotiations,

1 and pretrial diversion programs before finalizing any negotiation
2 that may result in a dismissal, plea or sentence bargain, or pre-
3 trial diversion.

4 (4) If the case against the defendant is dismissed at any
5 time, the prosecuting attorney shall notify the victim of the
6 dismissal within 48 hours.

7 (5) A victim who receives a notice under subsection (1) or
8 (2) and who chooses to receive any ~~other~~ notice or ~~notices~~
9 EXERCISE ANY RIGHT under this article shall keep the following
10 persons informed of the victim's current address and telephone
11 number:

12 (a) The prosecuting attorney, until final disposition or
13 completion of the appellate process, whichever occurs later.

14 (b) The sheriff, if the defendant is imprisoned for more
15 than 92 days.

16 Sec. 68. (1) Based upon the victim's reasonable apprehen-
17 sion of acts or threats of physical violence or intimidation by
18 the defendant or at defendant's direction against the victim or
19 the victim's immediate family, the prosecuting attorney may move
20 that the victim or any other witness not be compelled to testify
21 at pretrial proceedings or at trial for purposes of identifying
22 the victim as to the victim's address, place of employment, or
23 other personal identification without the victim's consent. A
24 hearing on the motion shall be in camera.

25 (2) PURSUANT TO SECTION 24 OF ARTICLE I OF THE STATE CONSTI-
26 TUTION OF 1963, GUARANTEEING TO CRIME VICTIMS THE RIGHT TO BE
27 TREATED WITH RESPECT FOR THEIR DIGNITY AND PRIVACY, ALL OF THE

1 FOLLOWING INFORMATION AND VISUAL REPRESENTATIONS OF A VICTIM ARE
2 EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976
3 PA 442, MCL 15.231 TO 15.246:

4 (A) THE NAME, HOME ADDRESS, HOME TELEPHONE NUMBER, WORK
5 ADDRESS, AND WORK TELEPHONE NUMBER OF THE VICTIM.

6 (B) A PICTURE, PHOTOGRAPH, DRAWING, OR OTHER VISUAL REPRE-
7 SENTATION, INCLUDING ANY FILM, VIDEOTAPE, OR DIGITALLY STORED
8 IMAGE, SHOWING THE VICTIM'S INTIMATE PARTS, OR SHOWING SEXUAL
9 CONTACT OR SEXUAL PENETRATION INVOLVING THE VICTIM. AS USED IN
10 THIS SUBDIVISION, "INTIMATE PARTS", "SEXUAL CONTACT", AND "SEXUAL
11 PENETRATION" HAVE THE MEANINGS GIVEN TO THOSE TERMS IN SECTION
12 520A OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520A.

13 Sec. 71. The victim SHALL NOT BE SEQUESTERED AND has the
14 right to be present throughout the DEFENDANT'S entire trial ~~of~~
15 ~~the defendant, unless the victim is going to be called as a~~
16 ~~witness~~ AND ALL OTHER COURT PROCEEDINGS THAT THE DEFENDANT HAS
17 THE RIGHT TO ATTEND. ~~If the victim is going to be called as a~~
18 ~~witness, the court may, for good cause shown, order the victim to~~
19 ~~be sequestered until the victim first testifies.~~

20 Sec. 74. If a presentence investigation report concerning
21 the defendant is prepared, the victim has the right to submit or
22 make a written or oral impact statement to the probation officer
23 for use by that officer in preparing the report pursuant to sec-
24 tion 14 of chapter XI of the code of criminal procedure, ~~Act~~
25 ~~No. 175 of the Public Acts of 1927, being section 771.14 of the~~
26 ~~Michigan Compiled Laws~~ 1927 PA 175, MCL 771.14. A victim's

1 written statement shall, upon the victim's request, be included
2 in the presentence investigation report.

3 Sec. 75. If no presentence report is prepared, the court
4 shall notify the prosecuting attorney of the date and time of
5 sentencing at least 10 days prior to the sentencing. The victim
6 ~~shall have~~ HAS the right to submit a written impact statement
7 and ~~shall have~~ HAS the right to appear and make an oral impact
8 statement at the sentencing of the defendant. IF THE VICTIM IS
9 PHYSICALLY OR EMOTIONALLY UNABLE TO MAKE THE ORAL IMPACT STATE-
10 MENT, THE VICTIM MAY DESIGNATE ANY OTHER PERSON 18 YEARS OF AGE
11 OR OLDER WHO IS NOT THE DEFENDANT AND IS NOT SERVING A SENTENCE
12 TO MAKE THE STATEMENT ON HIS OR HER BEHALF. THE OTHER PERSON
13 NEED NOT BE AN ATTORNEY. The court shall consider the victim's
14 statement in imposing sentence on the defendant.

15 Sec. 76. (1) For purposes of this section only:

16 (a) "Misdemeanor" means a violation of a law of this state
17 or a local ordinance that is punishable by imprisonment for not
18 more than 1 year or a fine that is not a civil fine, but that is
19 not a felony.

20 (b) "Victim" means an individual who suffers direct or
21 threatened physical, financial, or emotional harm as a result of
22 the commission of a misdemeanor. For purposes of subsections
23 (2), (3), (6), (8), (9), and (13), victim includes a sole propri-
24 etorship, partnership, corporation, association, governmental
25 entity, or any other legal entity that suffers direct physical or
26 financial harm as a result of a misdemeanor.

1 (2) Except as provided in subsection (8), when sentencing a
2 defendant convicted of a misdemeanor, the court shall order, in
3 addition to or in lieu of any other penalty authorized by law or
4 in addition to any other penalty required by law, that the
5 defendant make full restitution to any victim of the defendant's
6 course of conduct that gives rise to the conviction or to the
7 victim's estate.

8 (3) If a misdemeanor results in damage to or loss or
9 destruction of property of a victim of the misdemeanor or results
10 in the seizure or impoundment of property of a victim of the mis-
11 demeanor, the order of restitution may require that the defendant
12 do 1 or more of the following, as applicable:

13 (a) Return the property to the owner of the property or to a
14 person designated by the owner.

15 (b) If return of the property under subdivision (a) is
16 impossible, impractical, or inadequate, pay an amount equal to
17 the greater of subparagraph (i) or (ii), less the value, deter-
18 mined as of the date the property is returned, of that property
19 or any part of the property that is returned:

20 (i) The value of the property on the date of the damage,
21 loss, or destruction.

22 (ii) The value of the property on the date of sentencing.

23 (c) Pay the costs of the seizure or impoundment, or both.

24 (4) If a misdemeanor results in physical or psychological
25 injury to a victim, the order of restitution may require that the
26 defendant do 1 or more of the following, as applicable:

1 (a) Pay an amount equal to the cost of ~~actual~~ medical and
2 related professional services and devices ACTUALLY INCURRED AND
3 REASONABLY EXPECTED TO BE INCURRED relating to physical and psy-
4 chological care.

5 (b) Pay an amount equal to the cost of ~~actual~~ physical and
6 occupational therapy and rehabilitation ACTUALLY INCURRED AND
7 REASONABLY EXPECTED TO BE INCURRED.

8 (c) Reimburse the victim or the victim's estate for
9 after-tax income loss suffered by the victim as a result of the
10 misdemeanor OR, IF THE VICTIM IS LESS THAN 18 YEARS OF AGE OR IS
11 CLAIMED AS A DEPENDENT BY HIS OR HER PARENT OR GUARDIAN ON THE
12 PARENT'S OR GUARDIAN'S FEDERAL INCOME TAX RETURN, AFTER-TAX
13 INCOME LOSS SUFFERED BY THE VICTIM'S PARENT OR GUARDIAN AS A
14 RESULT OF THE CRIME.

15 (d) Pay an amount equal to the cost of psychological and
16 medical treatment for members of the victim's family ~~that has~~
17 ~~been~~ ACTUALLY incurred AND REASONABLY EXPECTED TO BE INCURRED as
18 a result of the misdemeanor.

19 (e) Pay an amount equal to the costs of ~~actual~~ homemaking
20 and child care expenses ACTUALLY incurred AND REASONABLY EXPECTED
21 TO BE INCURRED as a result of the misdemeanor OR, IF HOME MAKING
22 OR CHILD CARE IS PROVIDED WITHOUT COMPENSATION BY A RELATIVE,
23 FRIEND, OR ANY OTHER PERSON, AN AMOUNT EQUAL TO THE COSTS THAT
24 WOULD REASONABLY BE INCURRED AS A RESULT OF THE MISDEMEANOR FOR
25 THAT HOME MAKING AND CHILD CARE, BASED ON THE RATES IN THE AREA
26 FOR COMPARABLE SERVICES.

1 (F) ~~(5) If a misdemeanor resulting in bodily injury also~~
2 ~~results in the death of a victim, the order of restitution may~~
3 ~~require that the defendant pay~~ PAY an amount equal to the cost
4 of actual funeral and related services.

5 (G) IF THE DECEASED VICTIM COULD BE CLAIMED AS A DEPENDENT
6 BY HIS OR HER PARENT OR GUARDIAN ON THE PARENT'S OR GUARDIAN'S
7 FEDERAL, STATE, OR LOCAL INCOME TAX RETURNS, PAY AN AMOUNT EQUAL
8 TO THE LOSS OF THE TAX DEDUCTION. THE AMOUNT OF REIMBURSEMENT
9 SHALL BE ESTIMATED FOR EACH YEAR THE VICTIM COULD REASONABLY BE
10 CLAIMED AS A DEPENDENT.

11 (5) IF A CRIME RESULTING IN BODILY INJURY ALSO RESULTS IN
12 THE DEATH OF A VICTIM OR SERIOUS IMPAIRMENT OF A BODY FUNCTION OF
13 A VICTIM, THE COURT MAY ORDER UP TO 3 TIMES THE AMOUNT OF RESTI-
14 TUTION OTHERWISE ALLOWED UNDER THIS SECTION. AS USED IN THIS
15 SUBSECTION, "SERIOUS IMPAIRMENT OF A BODY FUNCTION OF A VICTIM"
16 INCLUDES, BUT IS NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

- 17 (A) LOSS OF A LIMB OR USE OF A LIMB.
18 (B) LOSS OF A HAND OR FOOT OR USE OF A HAND OR FOOT.
19 (C) LOSS OF AN EYE OR USE OF AN EYE OR EAR.
20 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.
21 (E) SERIOUS VISIBLE DISFIGUREMENT.
22 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.
23 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.
24 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.
25 (I) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.
26 (J) LOSS OF A BODY ORGAN.

1 (6) If the victim or victim's estate consents, the order of
2 restitution may require that the defendant make restitution in
3 services in lieu of money.

4 (7) If the victim is deceased, the court shall order that
5 the restitution be made to the victim's estate.

6 (8) The court shall order restitution to the crime victim
7 services commission or to any individuals, partnerships, corpora-
8 tions, associations, governmental entities, or other legal enti-
9 ties that have compensated the victim or the victim's estate for
10 a loss incurred by the victim to the extent of the compensation
11 paid for that loss. The court shall also order restitution for
12 the costs of services provided to persons or entities that have
13 provided services to the victim as a result of the misdemeanor.
14 Services that are subject to restitution under this subsection
15 include, but are not limited to, shelter, food, clothing, and
16 transportation. However, an order of restitution shall require
17 that all restitution to a victim or victim's estate under the
18 order be made before any restitution to any other person or
19 entity under that order is made. The court shall not order res-
20 titution to be paid to a victim or victim's estate if the victim
21 or victim's estate has received or is to receive compensation for
22 that loss, and the court shall state on the record with specific-
23 ity the reasons for its action. ~~If an entity entitled to resti-~~
24 ~~tution under this subsection for compensating the victim or the~~
25 ~~victim's estate cannot or refuses to be reimbursed for that com-~~
26 ~~pensation, the restitution paid for that entity shall be~~
27 ~~deposited by the state treasurer in the crime victim's rights~~

~~1 fund created under section 4 of 1989 PA 196, MCL 780.904, or its~~
~~2 successor fund.~~

3 (9) Any amount paid to a victim or victim's estate under an
4 order of restitution shall be set off against any amount later
5 recovered as compensatory damages by the victim or the victim's
6 estate in any federal or state civil proceeding and shall reduce
7 the amount payable to a victim or a victim's estate by an award
8 from the crime victim services commission made after an order of
9 restitution under this section.

10 (10) If not otherwise provided by the court under this sub-
11 section, restitution shall be made immediately. However, the
12 court may require that the defendant make restitution under this
13 section within a specified period or in specified installments.

14 (11) If the defendant is placed on probation or the court
15 imposes a conditional sentence as provided in section 3 of chap-
16 ter IX of the code of criminal procedure, 1927 PA 175, MCL 769.3,
17 any restitution ordered under this section shall be a condition
18 of that probation or sentence. The court may revoke probation or
19 impose imprisonment under the conditional sentence if the
20 defendant fails to comply with the order and if the defendant has
21 not made a good faith effort to comply with the order. In deter-
22 mining whether to revoke probation or impose imprisonment, the
23 court shall consider the defendant's employment status, earning
24 ability, and financial resources, the willfulness of the
25 defendant's failure to pay, and any other special circumstances
26 that may have a bearing on the defendant's ability to pay.

1 (12) A defendant who is required to pay restitution and who
2 is not in willful default of the payment of the restitution may
3 at any time petition the sentencing judge or his or her successor
4 to modify the method of payment. If the court determines that
5 payment under the order will impose a manifest hardship on the
6 defendant or his or her immediate family, AND IF THE COURT ALSO
7 DETERMINES THAT MODIFYING THE METHOD OF PAYMENT WILL NOT IMPOSE A
8 MANIFEST HARDSHIP ON THE VICTIM, the court may modify the method
9 of payment.

10 (13) An order of restitution entered under this section
11 remains effective until it is satisfied in full. An order of
12 restitution is a judgment and lien against all property of the
13 defendant for the amount specified in the order of restitution.
14 The lien may be recorded as provided by law. An order of resti-
15 tution may be enforced UPON THE COURT'S OWN MOTION, OR by the
16 prosecuting attorney, a victim, a victim's estate, or any other
17 person or entity named in the order to receive restitution in the
18 same manner as a judgment in a civil action or a lien.

19 (14) Notwithstanding any other provision of this section, a
20 defendant shall not be imprisoned, jailed, or incarcerated for a
21 violation of probation or otherwise for failure to pay restitu-
22 tion as ordered under this section unless the court determines
23 that the defendant has the resources to pay the ordered restitu-
24 tion and has not made a good faith effort to do so.

25 (15) In each case in which payment of restitution is ordered
26 as a condition of probation, the COURT SHALL ORDER ANY EMPLOYED
27 DEFENDANT TO EXECUTE A WAGE ASSIGNMENT TO PAY THE RESTITUTION.

1 IF THE DEFENDANT IS NOT CURRENTLY EMPLOYED, BUT BECOMES EMPLOYED
2 DURING THE PERIOD OF PROBATION, THE PROBATION OFFICER SHALL
3 ENSURE THAT THE DEFENDANT EXECUTES A WAGE ASSIGNMENT. THE proba-
4 tion officer assigned to the case shall review the case not less
5 than twice yearly to ensure that restitution is being paid as
6 ordered. IF THE RESTITUTION WAS ORDERED TO BE MADE IMMEDIATELY,
7 THE PROBATION OFFICER ASSIGNED TO THE CASE SHALL REVIEW THE CASE
8 NOT LESS THAN 3 MONTHS AFTER THE RESTITUTION WAS ORDERED TO
9 DETERMINE IF THE RESTITUTION HAS BEEN PAID IN FULL. The final
10 review shall be conducted not less than 60 days before the proba-
11 tionary period expires. If the probation officer determines AT
12 ANY REVIEW that restitution is not being paid as ordered, the
13 probation officer shall file a written report of the violation
14 with the court on a form prescribed by the state court adminis-
15 trative office. The report shall include a statement of the
16 amount of the arrearage and any reasons for the arrearage known
17 by the probation officer. The probation officer shall immedi-
18 ately provide a copy of the report to the prosecuting attorney.
19 ~~If a motion is filed or other proceedings are initiated to~~
20 ~~enforce payment of restitution and~~ UPON RECEIPT OF THE REPORT,
21 THE COURT SHALL CONDUCT A HEARING, AND IF the court determines
22 that restitution is not being paid or has not been paid as
23 ordered by the court, the court shall promptly take action neces-
24 sary to compel compliance.

25 (16) If the court determines that a defendant who is ordered
26 to pay restitution under this section is remanded to the
27 jurisdiction of the department of corrections, the court shall

1 provide a copy of the order of restitution to the department of
2 corrections when the court determines that the defendant is
3 remanded to the department's jurisdiction.

4 (17) THE COURT SHALL NOT IMPOSE A FEE ON A VICTIM, VICTIM'S
5 ESTATE, OR PROSECUTING ATTORNEY FOR ENFORCING AN ORDER OF
6 RESTITUTION.

7 (18) IF A PERSON OR ENTITY ENTITLED TO RESTITUTION CANNOT BE
8 LOCATED OR REFUSES TO CLAIM THAT RESTITUTION WITHIN 2 YEARS AFTER
9 THE DATE ON WHICH HE OR SHE COULD HAVE CLAIMED THE RESTITUTION,
10 THE RESTITUTION PAID TO THAT PERSON OR ENTITY SHALL BE DEPOSITED
11 IN THE CRIME VICTIM'S RIGHTS FUND CREATED UNDER SECTION 4 OF 1989
12 PA 196, MCL 780.904, OR ITS SUCCESSOR FUND. HOWEVER, A PERSON OR
13 ENTITY ENTITLED TO THAT RESTITUTION MAY CLAIM THAT RESTITUTION AT
14 ANY TIME BY APPLYING TO THE CRIME VICTIM SERVICES COMMISSION IN
15 THE MANNER PROVIDED BY LAW.

16 SEC. 76A. (1) IF A PERSON IS SUBJECT TO ANY COMBINATION OF
17 FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
18 SUPERVISION FEES, OR OTHER PAYMENTS ARISING OUT OF THE SAME CRIM-
19 INAL PROCEEDING, MONEY COLLECTED FROM THAT PERSON FOR THE PAYMENT
20 OF FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
21 SUPERVISION FEES, OR OTHER PAYMENTS SHALL BE ALLOCATED AS PRO-
22 VIDED IN THIS SECTION.

23 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF A
24 PERSON IS SUBJECT TO PAYMENT OF VICTIM PAYMENTS AND ANY COMBINA-
25 TION OF OTHER FINES, COSTS, ASSESSMENTS, PROBATION OR PAROLE
26 SUPERVISION FEES, OR OTHER PAYMENTS, 50% OF EACH PAYMENT
27 COLLECTED BY THE COURT FROM THAT PERSON SHALL BE APPLIED TO

1 PAYMENT OF VICTIM PAYMENTS, AND THE BALANCE SHALL BE APPLIED TO
2 PAYMENT OF FINES, COSTS, SUPERVISION FEES, AND OTHER ASSESSMENTS
3 OR PAYMENTS. IF ANY FINES, COSTS, SUPERVISION FEES, OR OTHER
4 ASSESSMENTS OR PAYMENTS REMAIN UNPAID AFTER ALL OF THE VICTIM
5 PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COLLECTED SHALL BE
6 APPLIED TO PAYMENT OF THOSE FINES, COSTS, SUPERVISION FEES, OR
7 OTHER ASSESSMENTS OR PAYMENTS. IF ANY VICTIM PAYMENTS REMAIN
8 UNPAID AFTER ALL OF THE FINES, COSTS, SUPERVISION FEES, OR OTHER
9 ASSESSMENTS OR PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COL-
10 LECTED SHALL BE APPLIED TOWARD PAYMENT OF THOSE VICTIM PAYMENTS.

11 (3) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF STATE
12 LAW, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF FINES,
13 COSTS, PROBATION AND PAROLE SUPERVISION FEES, AND ASSESSMENTS OR
14 PAYMENTS OTHER THAN VICTIM PAYMENTS SHALL BE APPLIED IN THE FOL-
15 LOWING ORDER OF PRIORITY:

16 (A) PAYMENT OF COSTS.

17 (B) PAYMENT OF FINES.

18 (C) PAYMENT OF PROBATION OR PAROLE SUPERVISION FEES.

19 (D) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS.

20 (4) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF LOCAL
21 ORDINANCES, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF
22 FINES, COSTS, AND ASSESSMENTS OR PAYMENTS OTHER THAN VICTIM PAY-
23 MENTS SHALL BE APPLIED IN THE FOLLOWING ORDER OF PRIORITY:

24 (A) PAYMENT OF FINES AND COSTS.

25 (B) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS.

26 (5) AS USED IN THIS SECTION, "VICTIM PAYMENT" MEANS
27 RESTITUTION ORDERED TO BE PAID TO THE VICTIM, TO THE VICTIM'S

1 ESTATE, OR TO A PERSON WHO REIMBURSED THE VICTIM FOR HIS OR HER
2 LOSS, OR AN ASSESSMENT ORDERED UNDER SECTION 5 OF 1989 PA 196,
3 MCL 780.905.

4 Sec. 78. (1) Upon the request of the victim, the prosecut-
5 ing attorney shall notify the victim of the following:

6 (a) That the defendant ~~has~~ filed an appeal of his or her
7 conviction OR SENTENCE OR THAT THE PROSECUTING ATTORNEY FILED AN
8 APPEAL.

9 (b) Whether the defendant has been ordered released on bail
10 or other recognizance pending the disposition of the appeal. If
11 the prosecuting attorney is notified that the defendant has been
12 ordered released on bail or other recognizance pending disposi-
13 tion of the appeal, the prosecuting attorney shall use any means
14 reasonably calculated to give the victim notice of that order
15 within 24 hours after the prosecuting attorney is notified of the
16 order.

17 (c) The time and place of any appellate court proceedings
18 and any changes in the time or place of those proceedings.

19 (d) The result of the appeal. If the prosecuting attorney
20 is notified that the conviction is ordered reversed, ~~or~~ THE
21 SENTENCE IS VACATED, the case is remanded for further proceedings
22 OR A NEW TRIAL, OR THE PROSECUTING ATTORNEY'S APPEAL IS DENIED,
23 the prosecuting attorney shall use any means reasonably calcu-
24 lated to give the victim notice of that order within 24 hours
25 after the prosecuting attorney is notified of the order. NOT
26 LATER THAN 48 HOURS BEFORE RELEASING AN OPINION OR ORDER THAT
27 REVERSES A CONVICTION, VACATES A SENTENCE, REMANDS A CASE TO THE

1 TRIAL COURT FOR FURTHER PROCEEDINGS OR A NEW TRIAL, OR DENIES A
2 PROSECUTING ATTORNEY'S APPEAL, THE CLERK OF THE APPELLATE COURT
3 SHALL PROVIDE THE PROSECUTING ATTORNEY OF RECORD WITH A COPY OF
4 THAT ORDER OR OPINION.

5 (2) If the prosecuting attorney is not successful in notify-
6 ing the victim of an event described in subsection (1) within the
7 period set forth in that subsection, ~~for notification,~~ the
8 prosecuting attorney shall notify the victim of that event as
9 soon as possible by any means reasonably calculated to give the
10 victim prompt actual notice.

11 (3) Upon the request of the victim, the prosecuting attorney
12 shall provide the victim with a brief explanation in plain
13 English of the appeal process, including the possible
14 dispositions.

15 (4) If ~~the defendant's conviction is reversed and~~ the case
16 is returned to the trial court for further proceedings OR A NEW
17 TRIAL, the victim ~~shall have~~ HAS the same rights AS previously
18 requested during the proceedings ~~which~~ THAT led to the appeal.

19 Sec. 78a. (1) Upon the written request of a victim of a
20 serious misdemeanor, the sheriff shall mail to the victim the
21 following, as applicable, about a prisoner who has been sentenced
22 to imprisonment under the jurisdiction of the sheriff for commis-
23 sion of that serious misdemeanor:

24 (a) Within 30 days after the request, notice of the
25 sheriff's calculation of the earliest release date of the prison-
26 er, with all potential good time or disciplinary credits
27 considered if the sentence of imprisonment exceeds 90 days. The

1 victim may request 1-time only notice of the calculation
2 described in this subdivision.

3 ~~-(b) Notice of the escape of the person accused, convicted,~~
4 ~~or imprisoned for committing a serious misdemeanor against the~~
5 ~~victim, as provided in section 78b.~~

6 (B) ~~-(c)~~ Notice that a prisoner has had his or her name
7 legally changed while imprisoned in the county jail or within 2
8 years of release from the county jail.

9 (C) NOTICE THAT THE PRISONER HAS BEEN PLACED ON DAY PAROLE
10 OR WORK RELEASE.

11 (2) When a defendant is sentenced to a term of imprisonment,
12 the prosecuting attorney shall provide the victim with a form the
13 victim may submit to receive the notices provided for under this
14 section or section 78b. The form shall include the address of
15 the sheriff's department to which the form may be sent.

16 Enacting section 1. This amendatory act does not take
17 effect unless all of the following bills of the 90th Legislature
18 are enacted into law:

19 (a) Senate Bill No. _____ or House Bill No. _____ (request
20 no. 00034'99 a).

21 (b) Senate Bill No. _____ or House Bill No. _____ (request
22 no. 00034'99 b).

23 (c) Senate Bill No. _____ or House Bill No. _____ (request
24 no. 00034'99 c).