

HOUSE BILL No. 6455

September 12, 2006, Introduced by Rep. Van Regenmorter and referred to the Committee on Judiciary.

A bill to amend 1985 PA 87, entitled "William Van Regenmorter crime victim's rights act," by amending sections 13a, 16a, 17a, 31, 41a, 44a, 46b, 61, 76a, 78a, and 80a (MCL 780.763a, 780.766a, 780.767a, 780.781, 780.791a, 780.794a, 780.796b, 780.811, 780.826a, 780.828a, and 780.830a), sections 13a, 16a, 31, 44a, 61, and 76a as amended and sections 17a, 46b, and 80a as added by 2005 PA 184 and sections 41a and 78a as amended by 2000 PA 503, and by adding sections 2a, 18b, 31a, 45a, 61b, and 77b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 2A. THE DUTY UNDER THIS CHAPTER AND UNDER SECTION 24 OF**
2 **ARTICLE I OF THE STATE CONSTITUTION OF 1963 OF A COURT, THE**

1 DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF HUMAN SERVICES, A
2 COUNTY SHERIFF, OR A PROSECUTING ATTORNEY TO PROVIDE A NOTICE TO A
3 VICTIM ALSO APPLIES IF THE CASE AGAINST THE DEFENDANT IS RESOLVED
4 BY ASSIGNMENT OF THE DEFENDANT TO TRAINEE STATUS, BY A DELAYED
5 SENTENCE OR DEFERRED JUDGMENT OF GUILT, OR IN ANOTHER WAY THAT IS
6 NOT AN ACQUITTAL OR UNCONDITIONAL DISMISSAL. IN PERFORMING A DUTY
7 UNDER THIS CHAPTER OR UNDER SECTION 24 OF ARTICLE I OF THE STATE
8 CONSTITUTION OF 1963, THE COURT, DEPARTMENT OF CORRECTIONS,
9 DEPARTMENT OF HUMAN SERVICES, COUNTY SHERIFF, OR PROSECUTING
10 ATTORNEY MAY FURNISH INFORMATION OR RECORDS TO THE VICTIM THAT
11 WOULD OTHERWISE BE CLOSED TO PUBLIC INSPECTION, INCLUDING
12 INFORMATION OR RECORDS DESCRIBED IN SECTION 14 OF CHAPTER II OF THE
13 CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 762.14.

14 Sec. 13a. (1) When a defendant is SENTENCED TO PROBATION,
15 sentenced to a term of imprisonment, ordered to be placed in a
16 juvenile facility, or hospitalized in or admitted to a hospital or
17 a facility, the prosecuting attorney shall provide the victim with
18 a form the victim may submit to receive the notices provided for
19 under section 18B, 19, 19a, 20, or 20a. The form shall include the
20 address of the COURT, THE department of corrections, the sheriff,
21 the department of human services, the county juvenile agency, or
22 the hospital or facility, as applicable, to which the form may be
23 sent.

24 (2) If the defendant is sentenced to probation, the department
25 of corrections or the sheriff, as applicable, shall notify the
26 victim if the probation is revoked and the defendant is sentenced
27 to the department of corrections or to jail for more than 90 days.

1 The notice shall include a form the victim may submit to the
2 department of corrections or the sheriff to receive notices under
3 section 19, 20, or 20a.

4 (3) If the department of corrections determines that a
5 defendant who was, in the defendant's judgment of sentence, not
6 prohibited from being or permitted to be placed in the special
7 alternative incarceration unit established under section 3 of the
8 special alternative incarceration act, 1988 PA 287, MCL 798.13,
9 meets the eligibility requirements of section 34a(2) and (3) of the
10 corrections code of 1953, 1953 PA 232, MCL 791.234a, the department
11 of corrections shall notify the victim, if the victim has submitted
12 a written request for notification under section 19, of the
13 proposed placement of the defendant in the special alternative
14 incarceration unit not later than 30 days before placement is
15 intended to occur. In making the decision on whether or not to
16 object to the placement of the defendant in a special alternative
17 incarceration unit as required by section 34a(4) of the corrections
18 code of 1953, 1953 PA 232, MCL 791.234a, the sentencing judge or
19 the judge's successor shall review an impact statement submitted by
20 the victim under section 14.

21 Sec. 16a. (1) If a person is subject to any combination of
22 fines, costs, restitution, assessments, probation or parole
23 supervision fees, or other payments arising out of the same
24 criminal proceeding, money collected from that person for the
25 payment of fines, costs, restitution, assessments, probation or
26 parole supervision fees, or other payments ordered to be paid in
27 that proceeding shall be allocated as provided in this section. If

1 a person is subject to fines, costs, restitution, assessments,
2 probation or parole supervision fees, or other payments in more
3 than 1 proceeding in a court and if a person making a payment on
4 the fines, costs, restitution, assessments, probation or parole
5 supervision fees, or other payments does not indicate the
6 proceeding for which the payment is made, the court shall first
7 apply the money paid to a proceeding in which there is unpaid
8 restitution to be allocated as provided in this section.

9 (2) Except as otherwise provided in this subsection, if a
10 person is subject to payment of victim payments and any combination
11 of other fines, costs, assessments, probation or parole supervision
12 fees, or other payments, 50% of each payment collected by the court
13 from that person shall be applied to payment of victim payments,
14 and the balance shall be applied to payment of fines, costs,
15 supervision fees, and other assessments or payments. **IF A PERSON**
16 **MAKING A PAYMENT INDICATES THAT THE PAYMENT IS TO BE APPLIED TO**
17 **VICTIM PAYMENTS, OR IF THE PAYMENT IS RECEIVED AS A RESULT OF A**
18 **WAGE ASSIGNMENT UNDER SECTION 16 OR FROM THE DEPARTMENT OF**
19 **CORRECTIONS OR SHERIFF UNDER SECTION 17A, THE PAYMENT SHALL FIRST**
20 **BE APPLIED TO VICTIM PAYMENTS.** If any fines, costs, supervision
21 fees, or other assessments or payments remain unpaid after all of
22 the victim payments have been paid, any additional money collected
23 shall be applied to payment of those fines, costs, supervision
24 fees, or other assessments or payments. If any victim payments
25 remain unpaid after all of the fines, costs, supervision fees, or
26 other assessments or payments have been paid, any additional money
27 collected shall be applied ~~toward~~ **TO** payment of those victim

1 payments.

2 (3) In cases involving prosecutions for violations of state
3 law, money allocated under subsection (2) for payment of fines,
4 costs, probation and parole supervision fees, and assessments or
5 payments other than victim payments shall be applied in the
6 following order of priority:

7 (a) Payment of the minimum state cost prescribed by section 1j
8 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
9 769.1j.

10 (b) Payment of other costs.

11 (c) Payment of fines.

12 (d) Payment of probation or parole supervision fees.

13 (e) Payment of assessments and other payments, including
14 reimbursement to third parties who reimbursed a victim for his or
15 her loss.

16 (4) In cases involving prosecutions for violations of local
17 ordinances, money allocated under subsection (2) for payment of
18 fines, costs, and assessments or payments other than victim
19 payments shall be applied in the following order of priority:

20 (a) Payment of the minimum state cost prescribed by section 1j
21 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
22 769.1j.

23 (b) Payment of fines and other costs.

24 (c) Payment of assessments and other payments.

25 (5) As used in this section, "victim payment" means
26 restitution ordered to be paid to the victim or the victim's
27 estate, but not to a person who reimbursed the victim for his or

1 her loss; or an assessment ordered under section 5 of 1989 PA 196,
2 MCL 780.905.

3 Sec. 17a. (1) If a defendant who has been sentenced to the
4 department of corrections is ordered to pay restitution under
5 section 16, and if the defendant receives more than \$50.00 in a
6 month, the department of corrections shall deduct 50% of the amount
7 over \$50.00 received by the defendant for payment of the
8 restitution. The department of corrections shall promptly send the
9 deducted money to the **COURT OR TO THE** crime victim as provided in
10 the order of restitution when it accumulates to an amount that
11 exceeds \$100.00, or when the defendant is paroled, transferred to
12 community programs, or discharged on the maximum sentence.

13 (2) If a defendant who has been sentenced to jail is ordered
14 to pay restitution under section 16, and if the defendant receives
15 more than \$50.00 in a month, the sheriff ~~shall~~ **MAY** deduct 50% of
16 the amount over \$50.00 received by the defendant for payment of the
17 restitution, **AND 5% OF THE AMOUNT OVER \$50.00 RECEIVED BY THE**
18 **DEFENDANT TO BE RETAINED BY THE SHERIFF AS AN ADMINISTRATIVE FEE.**
19 The sheriff shall promptly send the ~~deducted~~ money **DEDUCTED FOR**
20 **RESTITUTION TO THE COURT OR** to the crime victim as provided in the
21 order of restitution when it accumulates to an amount that exceeds
22 \$100.00, or when the defendant is released to probation or
23 discharged on the maximum sentence.

24 (3) The department of corrections or sheriff, as applicable,
25 shall notify the defendant **AND THE COURT** in writing of all
26 deductions and payments made under this section. The requirements
27 of this section remain in effect until all of the restitution has

1 been paid. The department of corrections or sheriff shall not enter
2 into any agreement with a defendant that modifies the requirements
3 of this section. An agreement in violation of this subsection is
4 void.

5 **SEC. 18B. IF A DEFENDANT IS SENTENCED TO PROBATION WITH A**
6 **CONDITION FOR THE PROTECTION OF THE VICTIM AND IF REQUESTED BY THE**
7 **VICTIM, THE COURT SHALL NOTIFY THE VICTIM BY MAIL IF THE COURT**
8 **ORDERS THAT THE PROBATION BE TERMINATED EARLIER THAN PREVIOUSLY**
9 **ORDERED.**

10 Sec. 31. (1) Except as otherwise defined in this article, as
11 used in this article:

12 (a) "County juvenile agency" means that term as defined in
13 section 2 of the county juvenile agency act, 1998 PA 518, MCL
14 45.622.

15 (b) "Court" means the family division of circuit court.

16 (c) "Designated case" means a case designated as a case in
17 which the juvenile is to be tried in the same manner as an adult
18 under section 2d of chapter XIIIA of the probate code of 1939, 1939
19 PA 288, MCL 712A.2d.

20 (d) "Juvenile" means an individual alleged or found to be
21 within the court's jurisdiction under section 2(a)(1) of chapter
22 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for an
23 offense, including, but not limited to, an individual in a
24 designated case.

25 (e) "Juvenile facility" means a county facility, an
26 institution operated as an agency of the county or the court, or an
27 institution or agency described in the youth rehabilitation

1 services act, 1974 PA 150, MCL 803.301 to 803.309, to which a
2 juvenile has been committed or in which a juvenile is detained.

3 (f) "Offense" means 1 or more of the following:

4 (i) A violation of a penal law of this state for which a
5 juvenile offender, if convicted as an adult, may be punished by
6 imprisonment for more than 1 year or an offense expressly
7 designated by law as a felony.

8 (ii) A violation of section 81 (assault and battery, including
9 domestic violence), 81a (assault; infliction of serious injury,
10 including aggravated domestic violence), 115 (breaking and entering
11 or illegal entry), 136b(6) (child abuse in the fourth degree), 145
12 (contributing to the neglect or delinquency of a minor), ~~145a~~
13 ~~(enticing a child for immoral purposes)~~, 145d (using the internet
14 or a computer to make a prohibited communication), 233
15 (intentionally aiming a firearm without malice), 234 (discharge of
16 a firearm intentionally aimed at a person), 235 (discharge of an
17 intentionally aimed firearm resulting in injury), 335a (indecent
18 exposure), or 411h (stalking) of the Michigan penal code, 1931 PA
19 328, MCL 750.81, 750.81a, 750.115, 750.136b, 750.145, ~~750.145a~~,
20 750.145d, 750.233, 750.234, 750.235, 750.335a, and 750.411h.

21 (iii) A violation of section 601b(2) (injuring a worker in a
22 work zone) or 617a (leaving the scene of a personal injury
23 accident) of the Michigan vehicle code, 1949 PA 300, MCL 257.601b
24 and 257.617a, or a violation of section 625 (operating a vehicle
25 while under the influence of or impaired by intoxicating liquor or
26 a controlled substance, or with unlawful blood alcohol content) of
27 that act, MCL 257.625, if the violation involves an accident

1 resulting in damage to another individual's property or physical
2 injury or death to another individual.

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

8 (v) A violation of section 80176(1) or (3) (operating a vessel
9 while under the influence of or impaired by intoxicating liquor or
10 a controlled substance, or with unlawful blood alcohol content) of
11 the natural resources and environmental protection act, 1994 PA
12 451, MCL 324.80176, if the violation involves an accident resulting
13 in damage to another individual's property or physical injury or
14 death to any individual.

15 (vi) A violation of a local ordinance substantially
16 corresponding to a law enumerated in subparagraphs (i) to (v).

17 (vii) A violation described in subparagraphs (i) to (vi) that is
18 subsequently reduced to a violation not included in subparagraphs
19 (i) to (vi).

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

22 (h) "Prosecuting attorney" means the prosecuting attorney for
23 a county, an assistant prosecuting attorney for a county, the
24 attorney general, the deputy attorney general, an assistant
25 attorney general, a special prosecuting attorney, or, in connection
26 with the prosecution of an ordinance violation, an attorney for the
27 political subdivision that enacted the ordinance upon which the

1 violation is based.

2 (i) "Victim" means any of the following:

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

6 (ii) The following individuals other than the juvenile if the
7 victim is deceased:

8 (A) The spouse of the deceased victim.

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

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

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

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

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

20 (iii) A parent, guardian, or custodian of a victim who is less
21 than 18 years of age and who is neither the defendant nor
22 incarcerated, if the parent, guardian, or custodian so chooses.

23 (iv) A parent, guardian, or custodian of a victim who is
24 mentally or emotionally unable to participate in the legal process
25 if he or she is neither the defendant nor incarcerated.

26 (2) If a victim as defined in subsection (1)(i)(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, child 18 years of age or older, parent, sibling,
3 grandparent, or any other person 18 years of age or older who is
4 neither the defendant nor incarcerated to act in his or her place
5 while the physical or emotional disability continues. The victim
6 shall provide the prosecuting attorney with the name of the person
7 who is to act in his or her place. During the physical or emotional
8 disability, notices to be provided under this article to the victim
9 shall continue to be sent only to the victim.

10 (3) An individual who is charged with an offense arising out
11 of the same transaction from which the charge against the defendant
12 arose is not eligible to exercise the privileges and rights
13 established for victims under this article.

14 **SEC. 31A. THE DUTY UNDER THIS CHAPTER AND UNDER SECTION 24 OF**
15 **ARTICLE I OF THE STATE CONSTITUTION OF 1963 OF A COURT, THE**
16 **DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF HUMAN SERVICES, A**
17 **COUNTY SHERIFF, OR A PROSECUTING ATTORNEY TO PROVIDE A NOTICE TO A**
18 **VICTIM ALSO APPLIES IF THE CASE AGAINST THE DEFENDANT IS RESOLVED**
19 **BY ASSIGNMENT OF THE DEFENDANT TO TRAINEE STATUS, BY A DELAYED**
20 **SENTENCE OR DEFERRED JUDGMENT OF GUILT, OR IN ANOTHER WAY THAT IS**
21 **NOT AN ACQUITTAL OR UNCONDITIONAL DISMISSAL. IN PERFORMING A DUTY**
22 **UNDER THIS CHAPTER OR UNDER SECTION 24 OF ARTICLE I OF THE STATE**
23 **CONSTITUTION OF 1963, THE COURT, DEPARTMENT OF CORRECTIONS,**
24 **DEPARTMENT OF HUMAN SERVICES, COUNTY SHERIFF, OR PROSECUTING**
25 **ATTORNEY MAY FURNISH INFORMATION OR RECORDS TO THE VICTIM THAT**
26 **WOULD OTHERWISE BE CLOSED TO PUBLIC INSPECTION, INCLUDING**
27 **INFORMATION OR RECORDS DESCRIBED IN SECTION 14 OF CHAPTER II OF THE**

1 **CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 762.14.**

2 Sec. 41a. When a juvenile is ordered to be placed in a
3 juvenile facility or sentenced **TO PROBATION OR** to a term of
4 imprisonment, the prosecuting attorney, or the court pursuant to an
5 agreement under section 48a, shall provide the victim with a form
6 the victim may submit to receive the notices from the ~~family~~
7 ~~independence agency~~ **COURT, PROSECUTING ATTORNEY, DEPARTMENT OF**
8 **HUMAN SERVICES**, or county juvenile agency, as applicable, provided
9 for under section **45A OR** 48. The form shall include the address of
10 the ~~family independence agency,~~ **COURT, PROSECUTING ATTORNEY,**
11 **DEPARTMENT OF HUMAN SERVICES**, county juvenile agency, department of
12 corrections, or the sheriff, as applicable, to which the form may
13 be sent.

14 Sec. 44a. (1) If a juvenile is subject to any combination of
15 fines, costs, restitution, assessments, probation or parole
16 supervision fees, or other payments arising out of the same
17 criminal proceeding, money collected from that juvenile for the
18 payment of fines, costs, restitution, assessments, probation or
19 parole supervision fees, or other payments ordered to be paid in
20 that proceeding shall be allocated as provided in this section. If
21 a person is subject to fines, costs, restitution, assessments,
22 probation or parole supervision fees, or other payments in more
23 than 1 proceeding in a court and if a person making a payment on
24 the fines, costs, restitution, assessments, probation or parole
25 supervision fees, or other payments does not indicate the
26 proceeding for which the payment is made, the court shall first
27 apply the money paid to a proceeding in which there is unpaid

1 restitution to be allocated as provided in this section.

2 (2) Except as otherwise provided in this subsection, if a
3 juvenile is subject to payment of victim payments and any
4 combination of other fines, costs, assessments, probation or parole
5 supervision fees, or other payments, 50% of each payment collected
6 by the court from that juvenile shall be applied to payment of
7 victim payments, and the balance shall be applied to payment of
8 fines, costs, supervision fees, and other assessments or payments.
9 **IF A PERSON MAKING A PAYMENT INDICATES THAT THE PAYMENT IS TO BE**
10 **APPLIED TO VICTIM PAYMENTS, OR IF THE PAYMENT IS RECEIVED AS A**
11 **RESULT OF A WAGE ASSIGNMENT UNDER SECTION 44 OR FROM THE DEPARTMENT**
12 **OF CORRECTIONS, SHERIFF, DEPARTMENT OF HUMAN SERVICES, OR COUNTY**
13 **JUVENILE AGENCY UNDER SECTION 46B, THE PAYMENT SHALL FIRST BE**
14 **APPLIED TO VICTIM PAYMENTS.** If any fines, costs, supervision fees,
15 or other assessments or payments remain unpaid after all of the
16 victim payments have been paid, any additional money collected
17 shall be applied to payment of those fines, costs, supervision
18 fees, or other assessments or payments. If any victim payments
19 remain unpaid after all of the fines, costs, supervision fees, or
20 other assessments or payments have been paid, any additional money
21 collected shall be applied ~~toward~~ **TO** payment of those victim
22 payments.

23 (3) In cases involving prosecutions for violations of state
24 law, money allocated under subsection (2) for payment of fines,
25 costs, probation and parole supervision fees, and assessments or
26 payments other than victim payments shall be applied in the
27 following order of priority:

1 (a) Payment of the minimum state cost prescribed by section 1j
2 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
3 769.1j.

4 (b) Payment of other costs.

5 (c) Payment of fines.

6 (d) Payment of probation or parole supervision fees.

7 (e) Payment of assessments and other payments, including
8 reimbursement to third parties who reimbursed a victim for his or
9 her loss.

10 (4) In cases involving prosecutions for violations of local
11 ordinances, money allocated under subsection (2) for payment of
12 fines, costs, and assessments or payments other than victim
13 payments shall be applied in the following order of priority:

14 (a) Payment of the minimum state cost prescribed by section 1j
15 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
16 769.1j.

17 (b) Payment of fines and other costs.

18 (c) Payment of assessments and other payments.

19 (5) As used in this section, "victim payment" means
20 restitution ordered to be paid to the victim or the victim's
21 estate, but not to a person who reimbursed the victim for his or
22 her loss; or an assessment ordered under section 5 of 1989 PA 196,
23 MCL 780.905.

24 **SEC. 45A. IF A JUVENILE IS SENTENCED TO PROBATION WITH A**
25 **CONDITION FOR THE PROTECTION OF THE VICTIM AND IF REQUESTED BY THE**
26 **VICTIM, THE COURT SHALL NOTIFY THE VICTIM BY MAIL IF THE COURT**
27 **ORDERS THAT THE PROBATION BE TERMINATED EARLIER THAN PREVIOUSLY**

1 **ORDERED.**

2 Sec. 46b. (1) If a juvenile who has been sentenced to the
3 department of corrections is ordered to pay restitution under
4 section 44, and if the juvenile receives more than \$50.00 in a
5 month, the department of corrections shall deduct 50% of the amount
6 over \$50.00 received by the juvenile for payment of the
7 restitution. The department of corrections shall promptly send the
8 deducted money to the **COURT OR TO THE** crime victim as provided in
9 the order of restitution when it accumulates to an amount that
10 exceeds \$100.00, or when the juvenile is paroled, transferred to
11 community programs, or discharged on the maximum sentence.

12 (2) If a juvenile who has been sentenced to jail is ordered to
13 pay restitution under section 44, and if the juvenile receives more
14 than \$50.00 in a month, the sheriff ~~shall~~ **MAY** deduct 50% of the
15 amount over \$50.00 received by the juvenile for payment of the
16 restitution, **AND 5% OF THE AMOUNT OVER \$50.00 RECEIVED BY THE**
17 **JUVENILE TO BE RETAINED BY THE SHERIFF AS AN ADMINISTRATIVE FEE.**
18 The sheriff shall promptly send the ~~deducted~~ money **DEDUCTED FOR**
19 **RESTITUTION TO THE COURT OR** to the crime victim as provided in the
20 order of restitution when it accumulates to an amount that exceeds
21 \$100.00, or when the juvenile is released to probation or
22 discharged on the maximum sentence.

23 (3) If a juvenile who has been placed in a juvenile facility
24 is ordered to pay restitution under section 44, and if the juvenile
25 receives more than \$50.00 in a month, the department of human
26 services or the county juvenile agency, as applicable, ~~shall~~ **MAY**
27 deduct 50% of the amount over \$50.00 received by the juvenile for

1 payment of the restitution. The department of human services or the
2 county juvenile agency, as applicable, shall promptly send the
3 deducted money to the **COURT OR TO THE** crime victim as provided in
4 the order of restitution when it accumulates to an amount that
5 exceeds \$100.00, or when the juvenile is released from the juvenile
6 facility.

7 (4) The department of corrections, sheriff, department of
8 human services, or county juvenile agency, as applicable, shall
9 notify the juvenile **AND THE COURT** in writing of all deductions and
10 payments made under this section. The requirements of this section
11 remain in effect until all of the restitution has been paid. The
12 department of corrections, sheriff, department of human services,
13 or county juvenile agency shall not enter into any agreement with a
14 juvenile that modifies the requirements of this section. An
15 agreement in violation of this subsection is void.

16 Sec. 61. (1) Except as otherwise defined in this article, as
17 used in this article:

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

19 (i) A violation of section 81 of the Michigan penal code, 1931
20 PA 328, MCL 750.81, assault and battery, including domestic
21 violence.

22 (ii) A violation of section 81a of the Michigan penal code,
23 1931 PA 328, MCL 750.81a, assault; infliction of serious injury,
24 including aggravated domestic violence.

25 (iii) A violation of section 115 of the Michigan penal code,
26 1931 PA 328, MCL 750.115, breaking and entering or illegal entry.

27 (iv) A violation of section 136b(6) of the Michigan penal code,

1 1931 PA 328, MCL 750.136b, child abuse in the fourth degree.

2 (v) A violation of section 145 of the Michigan penal code,
3 1931 PA 328, MCL 750.145, contributing to the neglect or
4 delinquency of a minor.

5 ~~(vi) A violation of section 145a of the Michigan penal code,~~
6 ~~1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.~~

7 (vi) ~~(vii)~~ A misdemeanor violation of section 145d of the
8 Michigan penal code, 1931 PA 328, MCL 750.145d, using the internet
9 or a computer to make a prohibited communication.

10 (vii) ~~(viii)~~ A violation of section 233 of the Michigan penal
11 code, 1931 PA 238, MCL 750.233, intentionally aiming a firearm
12 without malice.

13 (viii) ~~(ix)~~ A violation of section 234 of the Michigan penal
14 code, 1931 PA 328, MCL 750.234, discharge of a firearm
15 intentionally aimed at a person.

16 (ix) ~~(x)~~ A violation of section 235 of the Michigan penal
17 code, 1931 PA 328, MCL 750.235, discharge of an intentionally aimed
18 firearm resulting in injury.

19 (x) ~~(xi)~~ A violation of section 335a of the Michigan penal
20 code, 1931 PA 328, MCL 750.335a, indecent exposure.

21 (xi) ~~(xii)~~ A violation of section 411h of the Michigan penal
22 code, 1931 PA 328, MCL 750.411h, stalking.

23 (xii) ~~(xiii)~~ A violation of section 601b(2) of the Michigan
24 vehicle code, 1949 PA 300, MCL 257.601b, injuring a worker in a
25 work zone.

26 (xiii) ~~(xiv)~~ A violation of section 617a of the Michigan
27 vehicle code, 1949 PA 300, MCL 257.617a, leaving the scene of a

1 personal injury accident.

2 **(xiv)** ~~—(xv)—~~ A violation of section 625 of the Michigan vehicle
3 code, 1949 PA 300, MCL 257.625, operating a vehicle while under the
4 influence of or impaired by intoxicating liquor or a controlled
5 substance, or with an unlawful blood alcohol content, if the
6 violation involves an accident resulting in damage to another
7 individual's property or physical injury or death to another
8 individual.

9 **(xv)** ~~—(xvi)—~~ Selling or furnishing alcoholic liquor to an
10 individual less than 21 years of age in violation of section 701 of
11 the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,
12 if the violation results in physical injury or death to any
13 individual.

14 **(xvi)** ~~—(xvii)—~~ A violation of section 80176(1) or (3) of the
15 natural resources and environmental protection act, 1994 PA 451,
16 MCL 324.80176, operating a vessel while under the influence of or
17 impaired by intoxicating liquor or a controlled substance, or with
18 an unlawful blood alcohol content, if the violation involves an
19 accident resulting in damage to another individual's property or
20 physical injury or death to any individual.

21 **(xvii)** ~~—(xviii)—~~ A violation of a local ordinance substantially
22 corresponding to a violation enumerated in subparagraphs (i) to
23 ~~(xvii)~~ **(xvi)**.

24 **(xviii)** ~~—(xix)—~~ A violation charged as a crime or serious
25 misdemeanor enumerated in subparagraphs (i) to ~~—(xviii)—~~ **(xvii)** but
26 subsequently reduced to or pleaded to as a misdemeanor. As used in
27 this subparagraph, "crime" means that term as defined in section 2.

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

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

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

8 (e) "Prisoner" means a person who has been convicted and
9 sentenced to imprisonment for having committed a serious
10 misdemeanor against a victim.

11 (f) "Prosecuting attorney" means the prosecuting attorney for
12 a county, an assistant prosecuting attorney for a county, the
13 attorney general, the deputy attorney general, an assistant
14 attorney general, a special prosecuting attorney, or, in connection
15 with the prosecution of an ordinance violation, an attorney for the
16 political subdivision that enacted the ordinance upon which the
17 violation is based.

18 (g) "Victim" means any of the following:

19 (i) An individual who suffers direct or threatened physical,
20 financial, or emotional harm as a result of the commission of a
21 serious misdemeanor, except as provided in subparagraph (ii), (iii),
22 or (iv).

23 (ii) The following individuals other than the defendant if the
24 victim is deceased:

25 (A) The spouse of the deceased victim.

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

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

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

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

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

10 (iii) A parent, guardian, or custodian of a victim who is less
11 than 18 years of age and who is neither the defendant nor
12 incarcerated, if the parent, guardian, or custodian so chooses.

13 (iv) A parent, guardian, or custodian of a victim who is so
14 mentally incapacitated that he or she cannot meaningfully
15 understand or participate in the legal process if he or she is not
16 the defendant and is not incarcerated.

17 (2) If a victim as defined in subsection (1)(g)(i) is
18 physically or emotionally unable to exercise the privileges and
19 rights under this article, the victim may designate his or her
20 spouse, child 18 years of age or older, parent, sibling, or
21 grandparent or any other person 18 years of age or older who is
22 neither the defendant nor incarcerated to act in his or her place
23 while the physical or emotional disability continues. The victim
24 shall provide the prosecuting attorney with the name of the person
25 who is to act in place of the victim. During the physical or
26 emotional disability, notices to be provided under this article to
27 the victim shall continue to be sent only to the victim.

1 (3) An individual who is charged with a serious misdemeanor, a
2 crime as defined in section 2, or an offense as defined in section
3 31 arising out of the same transaction from which the charge
4 against the defendant arose is not eligible to exercise the
5 privileges and rights established for victims under this article.

6 (4) An individual who is incarcerated is not eligible to
7 exercise the privileges and rights established for victims under
8 this article except that he or she may submit a written statement
9 to the court for consideration at sentencing.

10 **SEC. 61B. THE DUTY UNDER THIS CHAPTER AND UNDER SECTION 24 OF**
11 **ARTICLE I OF THE STATE CONSTITUTION OF 1963 OF A COURT, THE**
12 **DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF HUMAN SERVICES, A**
13 **COUNTY SHERIFF, OR A PROSECUTING ATTORNEY TO PROVIDE A NOTICE TO A**
14 **VICTIM ALSO APPLIES IF THE CASE AGAINST THE DEFENDANT IS RESOLVED**
15 **BY ASSIGNMENT OF THE DEFENDANT TO TRAINEE STATUS, BY A DELAYED**
16 **SENTENCE OR DEFERRED JUDGMENT OF GUILT, OR IN ANOTHER WAY THAT IS**
17 **NOT AN ACQUITTAL OR UNCONDITIONAL DISMISSAL. IN PERFORMING A DUTY**
18 **UNDER THIS CHAPTER OR UNDER SECTION 24 OF ARTICLE I OF THE STATE**
19 **CONSTITUTION OF 1963, THE COURT, DEPARTMENT OF CORRECTIONS,**
20 **DEPARTMENT OF HUMAN SERVICES, COUNTY SHERIFF, OR PROSECUTING**
21 **ATTORNEY MAY FURNISH INFORMATION OR RECORDS TO THE VICTIM THAT**
22 **WOULD OTHERWISE BE CLOSED TO PUBLIC INSPECTION, INCLUDING**
23 **INFORMATION OR RECORDS DESCRIBED IN SECTION 14 OF CHAPTER II OF THE**
24 **CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 762.14.**

25 Sec. 76a. (1) If a person is subject to any combination of
26 fines, costs, restitution, assessments, probation or parole
27 supervision fees, or other payments arising out of the same

1 criminal proceeding, money collected from that person for the
2 payment of fines, costs, restitution, assessments, probation or
3 parole supervision fees, or other payments ordered to be paid in
4 that proceeding shall be allocated as provided in this section. If
5 a person is subject to fines, costs, restitution, assessments,
6 probation or parole supervision fees, or other payments in more
7 than 1 proceeding in a court and if a person making a payment on
8 the fines, costs, restitution, assessments, probation or parole
9 supervision fees, or other payments does not indicate the
10 proceeding for which the payment is made, the court shall first
11 apply the money paid to a proceeding in which there is unpaid
12 restitution to be allocated as provided in this section.

13 (2) Except as otherwise provided in this subsection, if a
14 person is subject to payment of victim payments and any combination
15 of other fines, costs, assessments, probation or parole supervision
16 fees, or other payments, 50% of each payment collected by the court
17 from that person shall be applied to payment of victim payments,
18 and the balance shall be applied to payment of fines, costs,
19 supervision fees, and other assessments or payments. **IF A PERSON**
20 **MAKING A PAYMENT INDICATES THAT THE PAYMENT IS TO BE APPLIED TO**
21 **VICTIM PAYMENTS, OR IF THE PAYMENT IS RECEIVED AS A RESULT OF A**
22 **WAGE ASSIGNMENT UNDER SECTION 76 OR FROM THE SHERIFF UNDER SECTION**
23 **80A, THE PAYMENT SHALL FIRST BE APPLIED TO VICTIM PAYMENTS.** If any
24 fines, costs, supervision fees, or other assessments or payments
25 remain unpaid after all of the victim payments have been paid, any
26 additional money collected shall be applied to payment of those
27 fines, costs, supervision fees, or other assessments or payments.

1 If any victim payments remain unpaid after all of the fines, costs,
2 supervision fees, or other assessments or payments have been paid,
3 any additional money collected shall be applied ~~toward~~ TO payment
4 of those victim payments.

5 (3) In cases involving prosecutions for violations of state
6 law, money allocated under subsection (2) for payment of fines,
7 costs, probation and parole supervision fees, and assessments or
8 payments other than victim payments shall be applied in the
9 following order of priority:

10 (a) Payment of the minimum state cost prescribed by section 1j
11 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
12 769.1j.

13 (b) Payment of other costs.

14 (c) Payment of fines.

15 (d) Payment of probation or parole supervision fees.

16 (e) Payment of assessments and other payments, including
17 reimbursement to third parties who reimbursed a victim for his or
18 her loss.

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
22 payments shall be applied in the following order of priority:

23 (a) Payment of the minimum state cost prescribed by section 1j
24 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
25 769.1j.

26 (b) Payment of fines and other costs.

27 (c) 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 or the victim's
3 estate, but not to a person who reimbursed the victim for his or
4 her loss; or an assessment ordered under section 5 of 1989 PA 196,
5 MCL 780.905.

6 **SEC. 77B. IF A DEFENDANT IS SENTENCED TO PROBATION WITH A**
7 **CONDITION FOR THE PROTECTION OF THE VICTIM AND IF REQUESTED BY THE**
8 **VICTIM, THE COURT SHALL NOTIFY THE VICTIM BY MAIL IF THE COURT**
9 **ORDERS THAT THE PROBATION BE TERMINATED EARLIER THAN PREVIOUSLY**
10 **ORDERED.**

11 Sec. 78a. (1) Upon the written request of a victim of a
12 serious misdemeanor, the sheriff shall mail to the victim the
13 following, as applicable, about a prisoner who has been sentenced
14 to imprisonment under the jurisdiction of the sheriff for
15 commission of that serious misdemeanor:

16 (a) Within 30 days after the request, notice of the sheriff's
17 calculation of the earliest release date of the prisoner, with all
18 potential good time or disciplinary credits considered if the
19 sentence of imprisonment exceeds 90 days. The victim may request 1-
20 time only notice of the calculation described in this subdivision.

21 (b) Notice that a prisoner has had his or her name legally
22 changed while imprisoned in the county jail or within 2 years of
23 release from the county jail.

24 (c) Notice that the prisoner has been placed on day parole or
25 work release.

26 (2) When a defendant is sentenced to **PROBATION OR** a term of
27 imprisonment, the prosecuting attorney shall provide the victim

House Bill No. 6455 as amended September 19, 2006

1 with a form the victim may submit to receive the notices provided
2 for under this section or section **77B OR** 78b. The form shall
3 include the address of the **COURT, PROSECUTING ATTORNEY, OR**
4 sheriff's department, **AS APPLICABLE**, to which the form may be sent.

5 Sec. 80a. (1) If a defendant who has been sentenced to jail is
6 ordered to pay restitution under section 76, and if the defendant
7 receives more than \$50.00 in a month, the sheriff ~~shall~~ **MAY**
8 deduct 50% of the amount over \$50.00 received by the defendant for
9 payment of the restitution, **AND 5% OF THE AMOUNT OVER \$50.00**
10 **RECEIVED BY THE DEFENDANT TO BE RETAINED BY THE SHERIFF AS AN**
11 **ADMINISTRATIVE FEE**. The sheriff shall promptly send the ~~deducted~~
12 money **DEDUCTED FOR RESTITUTION TO THE COURT OR** to the crime victim
13 as provided in the order of restitution when it accumulates to an
14 amount that exceeds \$100.00, or when the defendant is released to
15 probation or discharged on the maximum sentence.

16 (2) The sheriff shall notify the defendant **AND THE COURT** in
17 writing of all deductions and payments made under this section. The
18 requirements of this section remain in effect until all of the
19 restitution has been paid. The sheriff shall not enter into any
20 agreement with a defendant that modifies the requirements of this
21 section. An agreement in violation of this subsection is void.

[Enacting section 1. This amendatory act takes effect January 1,
2007.]