

SUBSTITUTE FOR  
HOUSE BILL NO. 5901

(As amended April 22, 2008)

A bill to amend 1985 PA 87, entitled  
"William Van Regenmorter crime victim's rights act,"  
by amending section 82 (MCL 780.832), as added by 1988 PA 21, and  
by adding section 72a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 72A. (1) AN EMPLOYEE WHO IS A VICTIM IS ENTITLED TO A  
2           TOTAL OF NOT MORE THAN 12 WORKWEEKS OF UNPAID LEAVE DURING ANY 12-  
3           MONTH PERIOD TO ATTEND THE TRIAL OR OTHER COURT PROCEEDING OF THE  
4           DEFENDANT.

5           (2) AN EMPLOYEE SHALL PROVIDE HIS OR HER EMPLOYER WITH ALL OF  
6           THE FOLLOWING IF REQUESTING UNPAID LEAVE UNDER THIS SECTION:

7           (A) REASONABLE NOTICE OF THE DATE, TIME, AND ANTICIPATED  
8           DURATION OF THE TRIAL OR COURT PROCEEDING FOR WHICH UNPAID LEAVE IS  
9           SOUGHT.

10          (B) [A COPY OF THE NOTICE SENT TO THE VICTIM BY THE PROSECUTING

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1 ATTORNEY UNDER SECTION 66.

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4 (3) AN EMPLOYEE WHO IS GRANTED UNPAID LEAVE UNDER THIS SECTION  
5 SHALL PROVIDE HIS OR HER EMPLOYER WITH A STATEMENT FROM THE CLERK  
6 OF THE COURT IN WHICH THE TRIAL OR COURT PROCEEDING OCCURRED  
7 CONFIRMING THE DATE AND TIME THAT THE EMPLOYEE ATTENDED THE TRIAL  
8 OR COURT PROCEEDING. THE STATEMENT REQUIRED UNDER THIS SUBSECTION  
9 SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT OF ATTORNEY  
10 GENERAL.

11 (4) AN EMPLOYER SHALL NOT DISCHARGE, DEMOTE, SUSPEND,  
12 RETALIATE AGAINST, OR IN ANY OTHER MANNER DISCRIMINATE AGAINST AN  
13 EMPLOYEE FOR, OR PROHIBIT OR DISCOURAGE AN EMPLOYEE FROM,  
14 REQUESTING UNPAID LEAVE UNDER THIS SECTION. AN EMPLOYER WHO  
15 VIOLATES THIS SUBSECTION IS LIABLE TO AN EMPLOYEE IN A CIVIL ACTION  
16 FOR ALL DAMAGES INCURRED, INCLUDING REASONABLE ATTORNEY FEES.

17 (5) AN EMPLOYEE WHO IS A VICTIM SHALL NOT LOSE SENIORITY AND  
18 OTHER RIGHTS AND BENEFITS THAT ARE DETERMINED BY SENIORITY FOR  
19 USING LEAVE TIME TO ATTEND A TRIAL OR OTHER COURT PROCEEDING OF THE  
20 DEFENDANT.

21 (6) AN EMPLOYEE MAY ELECT TO USE OR AN EMPLOYER MAY REQUIRE  
22 THE EMPLOYEE TO USE THE EMPLOYEE'S ACCRUED PAID VACATION, PERSONAL  
23 LEAVE, OR SICK LEAVE FOR ANY PART OF THE LEAVE PROVIDED UNDER THIS  
24 SECTION.

[ (7) AN EMPLOYER MAY LIMIT THE LEAVE PROVIDED UNDER THIS ACT IF THE  
EMPLOYEE'S LEAVE WOULD CREATE AN UNDUE HARDSHIP TO THE EMPLOYER'S  
BUSINESS.

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(8) AN EMPLOYER SHALL KEEP CONFIDENTIAL THE RECORDS RELATING TO AN EMPLOYEE'S LEAVE UNDER THIS SECTION.

[(9)] AS USED IN THIS SECTION:

(A) "EMPLOYEE" MEANS A PERSON WHO [HAS BEEN EMPLOYED FOR AT LEAST 12 MONTHS BY THE EMPLOYER WITH RESPECT TO WHOM LEAVE IS REQUESTED AND HAS AT LEAST 1,250 HOURS OF SERVICE WITH SUCH EMPLOYER DURING THE PREVIOUS 12-MONTH PERIOD.] EMPLOYEE INCLUDES A PERSON EMPLOYED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE, EXCEPT STATE CLASSIFIED CIVIL SERVICE.

(B) "EMPLOYER" MEANS A PERSON WHO HAS 25 OR MORE EMPLOYEES. EMPLOYER INCLUDES AN AGENT OF AN EMPLOYER IN THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

(C) "UNDUE HARDSHIP" MEANS A SIGNIFICANT DIFFICULTY OR EXPENSE TO A BUSINESS, TAKING INTO CONSIDERATION THE SIZE OF THE EMPLOYER'S BUSINESS AND THE EMPLOYER'S CRITICAL NEED OF THE EMPLOYEE.

~~Sec. 82. Nothing in this article shall be construed as creating~~ EXCEPT AS PROVIDED IN SECTION 72A, THIS ARTICLE DOES NOT CREATE a cause of action for money damages against the state, a county, OR a municipality or any of ~~their~~ ITS agencies, instrumentalities, or employees.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are

1 enacted into law:

2 (a) House Bill No. 5900.

3 (b) House Bill No. 5902.