

**SUBSTITUTE FOR
HOUSE BILL NO. 6097**

A bill to amend 1985 PA 87, entitled
"William Van Regenmorter crime victim's rights act,"
by amending sections 4a, 16, 33b, 44, 64a, and 76 (MCL 780.754a,
780.766, 780.783b, 780.794, 780.814a, and 780.826), sections 4a,
33b, and 64a as added by 2004 PA 456 and sections 16, 44, and 76 as
amended by 2005 PA 184.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4a. (1) To facilitate compliance with **SECTIONS 11 AND 13**
2 **OF THE IDENTITY THEFT PROTECTION ACT, 2004 PA 452, MCL 445.71 AND**
3 **445.73, AND** 15 USC 1681g, a bona fide victim of identity theft is
4 entitled to file a police report with a law enforcement agency in a
5 jurisdiction where the alleged violation of identity theft may be

1 prosecuted as provided under section 10c of chapter II of the code
2 of criminal procedure, 1927 PA 175, MCL 762.10c, and to obtain a
3 copy of that report from that law enforcement agency.

4 (2) As used in this section, "identity theft" means that term
5 as defined in section 3 of the identity theft protection act, **2004**
6 **PA 452, MCL 445.63.**

7 Sec. 16. (1) As used in this section only, "victim" means an
8 individual who suffers direct or threatened physical, financial, or
9 emotional harm as a result of the commission of a crime. As used in
10 subsections (2), (3), (6), ~~(8)~~, (9), and ~~(13)~~ **(10), AND (14)** only,
11 victim includes a sole proprietorship, partnership, corporation,
12 association, governmental entity, or any other legal entity that
13 suffers direct physical or financial harm as a result of a crime.

14 (2) Except as provided in subsection ~~(8)~~ **(9)**, when sentencing
15 a defendant convicted of a crime, the court shall order, in
16 addition to or in lieu of any other penalty authorized by law or in
17 addition to any other penalty required by law, that the defendant
18 make full restitution to any victim of the defendant's course of
19 conduct that gives rise to the conviction or to the victim's
20 estate. For an offense that is resolved by assignment of the
21 defendant to youthful trainee status, by a delayed sentence or
22 deferred judgment of guilt, or in another way that is not an
23 acquittal or unconditional dismissal, the court shall order the
24 restitution required under this section.

25 (3) If a crime results in damage to or loss or destruction of
26 property of a victim of the crime or results in the seizure or
27 impoundment of property of a victim of the crime, the order of

1 restitution shall require that the defendant do 1 or more of the
2 following, as applicable:

3 (a) Return the property to the owner of the property or to a
4 person designated by the owner.

5 (b) If return of the property under subdivision (a) is
6 impossible, impractical, or inadequate, pay an amount equal to the
7 greater of subparagraph (i) or (ii), less the value, determined as of
8 the date the property is returned, of that property or any part of
9 the property that is returned:

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

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

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

14 (4) If a crime results in physical or psychological injury to
15 a victim, the order of restitution shall require that the defendant
16 do 1 or more of the following, as applicable:

17 (a) Pay an amount equal to the reasonably determined cost of
18 medical and related professional services and devices actually
19 incurred and reasonably expected to be incurred relating to
20 physical and psychological care.

21 (b) Pay an amount equal to the reasonably determined cost of
22 physical and occupational therapy and rehabilitation actually
23 incurred and reasonably expected to be incurred.

24 (c) Reimburse the victim or the victim's estate for after-tax
25 income loss suffered by the victim as a result of the crime.

26 (d) Pay an amount equal to the reasonably determined cost of
27 psychological and medical treatment for members of the victim's

1 family actually incurred and reasonably expected to be incurred as
2 a result of the crime.

3 (e) Pay an amount equal to the reasonably determined costs of
4 homemaking and child care expenses actually incurred and reasonably
5 expected to be incurred as a result of the crime or, if homemaking
6 or child care is provided without compensation by a relative,
7 friend, or any other person, an amount equal to the costs that
8 would reasonably be incurred as a result of the crime for that
9 homemaking and child care, based on the rates in the area for
10 comparable services.

11 (f) Pay an amount equal to the cost of actual funeral and
12 related services.

13 (g) If the deceased victim could be claimed as a dependent by
14 his or her parent or guardian on the parent's or guardian's
15 federal, state, or local income tax returns, pay an amount equal to
16 the loss of the tax deduction or tax credit. The amount of
17 reimbursement shall be estimated for each year the victim could
18 reasonably be claimed as a dependent.

19 (h) Pay an amount equal to income actually lost by the spouse,
20 parent, sibling, child, or grandparent of the victim because the
21 family member left his or her employment, temporarily or
22 permanently, to care for the victim because of the injury.

23 (5) If a crime resulting in bodily injury also results in the
24 death of a victim or serious impairment of a body function of a
25 victim, the court may order up to 3 times the amount of restitution
26 otherwise allowed under this section. As used in this subsection,
27 "serious impairment of a body function of a victim" includes, but

1 is not limited to, 1 or more of the following:

2 (a) Loss of a limb or use of a limb.

3 (b) Loss of a hand or foot or use of a hand or foot.

4 (c) Loss of an eye or use of an eye or ear.

5 (d) Loss or substantial impairment of a bodily function.

6 (e) Serious visible disfigurement.

7 (f) A comatose state that lasts for more than 3 days.

8 (g) Measurable brain damage or mental impairment.

9 (h) A skull fracture or other serious bone fracture.

10 (i) Subdural hemorrhage or subdural hematoma.

11 (j) Loss of a body organ.

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

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

17 **(8) IF THE VICTIM IS THE VICTIM OF IDENTITY THEFT AS THAT TERM**
18 **IS DEFINED IN SECTION 3 OF THE IDENTITY THEFT PROTECTION ACT, 2004**
19 **PA 452, MCL 445.63, THEN THE COURT SHALL ORDER RESTITUTION TO**
20 **COMPENSATE THE VICTIM IN FULL FOR THE WORK DONE BY THE VICTIM OR**
21 **THE VICTIM'S ATTORNEY, OR BOTH, TO RECTIFY THE VICTIM'S FINANCIAL**
22 **RECORDS AND VITAL RECORDS AND TO AMELIORATE THE EFFECTS OF THE**
23 **IDENTITY THEFT ON THE VICTIM'S FINANCIAL AFFAIRS, INCLUDING, BUT**
24 **NOT LIMITED TO, CREDIT HISTORY, CREDIT RATING, OR CREDIT SCORE.**

25 (9) ~~(8)~~The court shall order restitution to the crime victim
26 services commission or to any individuals, partnerships,
27 corporations, associations, governmental entities, or other legal

1 entities that have compensated the victim or the victim's estate
2 for a loss incurred by the victim to the extent of the compensation
3 paid for that loss. The court shall also order restitution for the
4 costs of services provided to persons or entities that have
5 provided services to the victim as a result of the crime. Services
6 that are subject to restitution under this subsection include, but
7 are not limited to, shelter, food, clothing, and transportation.
8 However, an order of restitution shall require that all restitution
9 to a victim or victim's estate under the order be made before any
10 restitution to any other person or entity under that order is made.
11 The court shall not order restitution to be paid to a victim or
12 victim's estate if the victim or victim's estate has received or is
13 to receive compensation for that loss, and the court shall state on
14 the record with specificity the reasons for its action.

15 (10) ~~(9)~~—Any amount paid to a victim or victim's estate under
16 an order of restitution shall be set off against any amount later
17 recovered as compensatory damages by the victim or the victim's
18 estate in any federal or state civil proceeding and shall reduce
19 the amount payable to a victim or a victim's estate by an award
20 from the crime victim services commission made after an order of
21 restitution under this section.

22 (11) ~~(10)~~—If not otherwise provided by the court under this
23 subsection, restitution shall be made immediately. However, the
24 court may require that the defendant make restitution under this
25 section within a specified period or in specified installments.

26 (12) ~~(11)~~—If the defendant is placed on probation or paroled
27 or the court imposes a conditional sentence as provided in section

1 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
2 769.3, any restitution ordered under this section shall be a
3 condition of that probation, parole, or sentence. The court may
4 revoke probation or impose imprisonment under the conditional
5 sentence and the parole board may revoke parole if the defendant
6 fails to comply with the order and if the defendant has not made a
7 good faith effort to comply with the order. In determining whether
8 to revoke probation or parole or impose imprisonment, the court or
9 parole board shall consider the defendant's employment status,
10 earning ability, and financial resources, the willfulness of the
11 defendant's failure to pay, and any other special circumstances
12 that may have a bearing on the defendant's ability to pay.

13 (13) ~~(12)~~—Subject to subsection ~~(18)~~—(19), a defendant who is
14 required to pay restitution and who is not in willful default of
15 the payment of the restitution may at any time petition the
16 sentencing judge or his or her successor to modify the method of
17 payment. If the court determines that payment under the order will
18 impose a manifest hardship on the defendant or his or her immediate
19 family, and if the court also determines that modifying the method
20 of payment will not impose a manifest hardship on the victim, the
21 court may modify the method of payment.

22 (14) ~~(13)~~—An order of restitution entered under this section
23 remains effective until it is satisfied in full. An order of
24 restitution is a judgment and lien against all property of the
25 defendant for the amount specified in the order of restitution. The
26 lien may be recorded as provided by law. An order of restitution
27 may be enforced by the prosecuting attorney, a victim, a victim's

1 estate, or any other person or entity named in the order to receive
2 the restitution in the same manner as a judgment in a civil action
3 or a lien.

4 (15) ~~(14)~~—Notwithstanding any other provision of this section,
5 a defendant shall not be imprisoned, jailed, or incarcerated for a
6 violation of probation or parole or otherwise for failure to pay
7 restitution as ordered under this section unless the court or
8 parole board determines that the defendant has the resources to pay
9 the ordered restitution and has not made a good faith effort to do
10 so.

11 (16) ~~(15)~~—If the court determines that a juvenile is or will
12 be unable to pay all of the restitution ordered, after notice to
13 the juvenile's parent or parents and an opportunity for the parent
14 or parents to be heard the court may order the parent or parents
15 having supervisory responsibility for the juvenile at the time of
16 the acts upon which an order of restitution is based to pay any
17 portion of the restitution ordered that is outstanding. An order
18 under this subsection does not relieve the juvenile of his or her
19 obligation to pay restitution as ordered, but the amount owed by
20 the juvenile shall be offset by any amount paid by his or her
21 parent. As used in this subsection:

22 (a) "Juvenile" means a person within the court's jurisdiction
23 under section 2d or 4 of chapter XIIA of the probate code of 1939,
24 1939 PA 288, MCL 712A.2d and 712A.4.

25 (b) "Parent" does not include a foster parent.

26 (17) ~~(16)~~—If the court orders a parent to pay restitution
27 under subsection ~~(15)~~—(16), the court shall take into account the

1 parent's financial resources and the burden that the payment of
2 restitution will impose, with due regard to any other moral or
3 legal financial obligations the parent may have. If a parent is
4 required to pay restitution under subsection ~~(15)~~-(16), the court
5 shall provide for payment to be made in specified installments and
6 within a specified period of time.

7 (18) ~~(17)~~-A parent who has been ordered to pay restitution
8 under subsection ~~(15)~~-(16) may petition the court for a
9 modification of the amount of restitution owed by the parent or for
10 a cancellation of any unpaid portion of the parent's obligation.
11 The court shall cancel all or part of the parent's obligation due
12 if the court determines that payment of the amount due will impose
13 a manifest hardship on the parent and if the court also determines
14 that modifying the method of payment will not impose a manifest
15 hardship on the victim.

16 (19) ~~(18)~~-In each case in which payment of restitution is
17 ordered as a condition of probation, the court shall order any
18 employed defendant to make regularly scheduled restitution
19 payments. If the defendant misses 2 or more regularly scheduled
20 payments, the court shall order the defendant to execute a wage
21 assignment to pay the restitution. The probation officer assigned
22 to the case shall review the case not less than twice yearly to
23 ensure that restitution is being paid as ordered. If the
24 restitution was ordered to be made within a specific period of
25 time, the probation officer assigned to the case shall review the
26 case at the end of the specific period of time to determine if the
27 restitution has been paid in full. The final review shall be

1 conducted not less than 60 days before the probationary period
2 expires. If the probation officer determines at any review that
3 restitution is not being paid as ordered, the probation officer
4 shall file a written report of the violation with the court on a
5 form prescribed by the state court administrative office or shall
6 petition the court for a probation violation. The report or
7 petition shall include a statement of the amount of the arrearage
8 and any reasons for the arrearage known by the probation officer.
9 The probation officer shall immediately provide a copy of the
10 report or petition to the prosecuting attorney. If a petition or
11 motion is filed or other proceedings are initiated to enforce
12 payment of restitution and the court determines that restitution is
13 not being paid or has not been paid as ordered by the court, the
14 court shall promptly take action necessary to compel compliance.

15 (20) ~~(19)~~—If a defendant who is ordered to pay restitution
16 under this section is remanded to the jurisdiction of the
17 department of corrections, the court shall provide a copy of the
18 order of restitution to the department of corrections when the
19 defendant is remanded to the department's jurisdiction.

20 (21) ~~(20)~~—The court shall not impose a fee on a victim,
21 victim's estate, or prosecuting attorney for enforcing an order of
22 restitution.

23 (22) ~~(21)~~—If a person or entity entitled to restitution under
24 this section cannot be located, refuses to claim the restitution
25 within 2 years after the date on which he or she could have claimed
26 the restitution, or refuses to accept the restitution, the
27 restitution to which that person or entity is entitled shall be

1 deposited in the crime victim's rights fund created under section 4
2 of 1989 PA 196, MCL 780.904, or its successor fund. However, a
3 person or entity entitled to that restitution may claim that
4 restitution any time by applying to the court that originally
5 ordered and collected it. The court shall notify the crime victim
6 services commission of the application and the commission shall
7 approve a reduction in the court's revenue transmittal to the crime
8 victim's rights fund equal to the restitution owed to the person or
9 entity. The court shall use the reduction to reimburse that
10 restitution to the person or entity.

11 (23) ~~(22)~~—The court may amend an order of restitution entered
12 under this section on a motion by the prosecuting attorney, the
13 victim, or the defendant based upon new information related to the
14 injury, damages, or loss for which the restitution was ordered.

15 (24) ~~(23)~~—A court that receives notice that a defendant who
16 has an obligation to pay restitution under this section has
17 declared bankruptcy shall forward a copy of that notice to the
18 prosecuting attorney. The prosecuting attorney shall forward the
19 notice to the victim at the victim's last known address.

20 (25) ~~(24)~~—If the victim is a minor, the order of restitution
21 shall require the defendant to pay to a parent of the victim an
22 amount that is determined to be reasonable for any of the following
23 that are actually incurred or reasonably expected to be incurred by
24 the parent as a result of the crime:

25 (a) Homemaking and child care expenses.

26 (b) Income loss not ordered to be paid under subsection

27 (4) (h).

1 (c) Mileage.

2 (d) Lodging or housing.

3 (e) Meals.

4 (f) Any other cost incurred in exercising the rights of the
5 victim or a parent under this act.

6 Sec. 33b. (1) To facilitate compliance with **SECTIONS 11 AND 13**
7 **OF THE IDENTITY THEFT PROTECTION ACT, 2004 PA 452, MCL 445.71 AND**
8 **445.73, AND** 15 USC 1681g, a bona fide victim of identity theft is
9 entitled to file a police report with a law enforcement agency in a
10 jurisdiction where the alleged violation of identity theft may be
11 prosecuted as provided under section 10c of chapter II of the code
12 of criminal procedure, 1927 PA 175, MCL 762.10c, and to obtain a
13 copy of that report from that law enforcement agency.

14 (2) As used in this section, "identity theft" means that term
15 as defined in section 3 of the identity theft protection act, **2004**
16 **PA 452, 445.63.**

17 Sec. 44. (1) As used in this section only:

18 (a) "Offense" means a violation of a penal law of this state
19 or a violation of an ordinance of a local unit of government of
20 this state punishable by imprisonment or by a fine that is not a
21 civil fine.

22 (b) "Victim" means an individual who suffers direct or
23 threatened physical, financial, or emotional harm as a result of
24 the commission of an offense. As used in subsections (2), (3), (6),
25 ~~(8)~~, (9), and ~~(13)~~ **(10), AND (14)** only, victim includes a sole
26 proprietorship, partnership, corporation, association, governmental
27 entity, or any other legal entity that suffers direct physical or

1 financial harm as a result of an offense.

2 (2) Except as provided in subsection ~~(8)~~—(9), at the
3 dispositional hearing or sentencing for an offense, the court shall
4 order, in addition to or in lieu of any other disposition or
5 penalty authorized by law, that the juvenile make full restitution
6 to any victim of the juvenile's course of conduct that gives rise
7 to the disposition or conviction or to the victim's estate. For an
8 offense that is resolved informally by means of a consent calendar
9 diversion or by another informal method that does not result in a
10 dispositional hearing, by assignment to youthful trainee status, by
11 a delayed sentence or deferred judgment of guilt, or in another way
12 that is not an acquittal or unconditional dismissal, the court
13 shall order the restitution required under this section.

14 (3) If an offense results in damage to or loss or destruction
15 of property of a victim of the offense or results in the seizure or
16 impoundment of property of a victim of the offense, the order of
17 restitution shall require that the juvenile do 1 or more of the
18 following, as applicable:

19 (a) Return the property to the owner of the property or to a
20 person designated by the owner.

21 (b) If return of the property under subdivision (a) is
22 impossible, impractical, or inadequate, pay an amount equal to the
23 greater of subparagraph (i) or (ii), less the value, determined as of
24 the date the property is returned, of that property or any part of
25 the property that is returned:

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

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

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

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

6 (a) Pay an amount equal to the reasonably determined cost of
7 medical and related professional services and devices actually
8 incurred and reasonably expected to be incurred relating to
9 physical and psychological care.

10 (b) Pay an amount equal to the reasonably determined cost of
11 physical and occupational therapy and rehabilitation actually
12 incurred and reasonably expected to be incurred.

13 (c) Reimburse the victim or the victim's estate for after-tax
14 income loss suffered by the victim as a result of the offense.

15 (d) Pay an amount equal to the reasonably determined cost of
16 psychological and medical treatment for members of the victim's
17 family actually incurred or reasonably expected to be incurred as a
18 result of the offense.

19 (e) Pay an amount equal to the reasonably determined costs of
20 homemaking and child care expenses actually incurred or reasonably
21 expected to be incurred as a result of the offense or, if
22 homemaking or child care is provided without compensation by a
23 relative, friend, or any other person, an amount equal to the costs
24 that would reasonably be incurred as a result of the offense for
25 that homemaking and child care, based on the rates in the area for
26 comparable services.

27 (f) Pay an amount equal to the cost of actual funeral and

1 related services.

2 (g) If the deceased victim could be claimed as a dependent by
3 his or her parent or guardian on the parent's or guardian's
4 federal, state, or local income tax returns, pay an amount equal to
5 the loss of the tax deduction or tax credit. The amount of
6 reimbursement shall be estimated for each year the victim could
7 reasonably be claimed as a dependent.

8 (h) Pay an amount equal to income actually lost by the spouse,
9 parent, sibling, child, or grandparent of the victim because the
10 family member left his or her employment, temporarily or
11 permanently, to care for the victim because of the injury.

12 (5) If an offense resulting in bodily injury also results in
13 the death of a victim or serious impairment of a body function of a
14 victim, the court may order up to 3 times the amount of restitution
15 otherwise allowed under this section. As used in this subsection,
16 "serious impairment of a body function of a victim" includes, but
17 is not limited to, 1 or more of the following:

18 (a) Loss of a limb or use of a limb.

19 (b) Loss of a hand or foot or use of a hand or foot.

20 (c) Loss of an eye or use of an eye or ear.

21 (d) Loss or substantial impairment of a bodily function.

22 (e) Serious visible disfigurement.

23 (f) A comatose state that lasts for more than 3 days.

24 (g) Measurable brain damage or mental impairment.

25 (h) A skull fracture or other serious bone fracture.

26 (i) Subdural hemorrhage or subdural hematoma.

27 (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 the
5 restitution be made to the victim's estate.

6 (8) IF THE VICTIM IS THE VICTIM OF IDENTITY THEFT AS THAT TERM
7 IS DEFINED IN SECTION 3 OF THE IDENTITY THEFT PROTECTION ACT, 2004
8 PA 452, MCL 445.63, THEN THE COURT SHALL ORDER RESTITUTION TO
9 COMPENSATE THE VICTIM IN FULL FOR THE WORK DONE BY THE VICTIM OR
10 THE VICTIM'S ATTORNEY, OR BOTH, TO RECTIFY THE VICTIM'S FINANCIAL
11 RECORDS AND VITAL RECORDS AND TO AMELIORATE THE EFFECTS OF THE
12 IDENTITY THEFT ON THE VICTIM'S FINANCIAL AFFAIRS, INCLUDING, BUT
13 NOT LIMITED TO, CREDIT HISTORY, CREDIT RATING, OR CREDIT SCORE.

14 (9) ~~(8)~~—The court shall order restitution to the crime victim
15 services commission or to any individuals, partnerships,
16 corporations, associations, governmental entities, or other legal
17 entities that have compensated the victim or the victim's estate
18 for a loss incurred by the victim to the extent of the compensation
19 paid for that loss. The court shall also order restitution for the
20 costs of services provided to persons or entities that have
21 provided services to the victim as a result of the offense.
22 Services that are subject to restitution under this subsection
23 include, but are not limited to, shelter, food, clothing, and
24 transportation. However, an order of restitution shall require that
25 all restitution to a victim or victim's estate under the order be
26 made before any restitution to any other person or entity under
27 that order is made. The court shall not order restitution to be

1 paid to a victim or victim's estate if the victim or victim's
2 estate has received or is to receive compensation for that loss,
3 and the court shall state on the record with specificity the
4 reasons for its action.

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

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

16 (12) ~~(11)~~—If the juvenile is placed on probation, any
17 restitution ordered under this section shall be a condition of that
18 probation. The court may revoke probation if the juvenile fails to
19 comply with the order and if the juvenile has not made a good faith
20 effort to comply with the order. In determining whether to revoke
21 probation, the court shall consider the juvenile's employment
22 status, earning ability, and financial resources, the willfulness
23 of the juvenile's failure to pay, and any other special
24 circumstances that may have a bearing on the juvenile's ability to
25 pay.

26 (13) ~~(12)~~—Subject to subsection ~~(18)~~—(19), a juvenile who is
27 required to pay restitution and who is not in willful default of

1 the payment of the restitution may at any time petition the court
2 to modify the method of payment. If the court determines that
3 payment under the order will impose a manifest hardship on the
4 juvenile or his or her immediate family, and if the court also
5 determines that modifying the method of payment will not impose a
6 manifest hardship on the victim, the court may modify the method of
7 payment.

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

17 (15) ~~(14)~~—Notwithstanding any other provision of this section,
18 a juvenile shall not be detained or imprisoned for a violation of
19 probation or parole or otherwise for failure to pay restitution as
20 ordered under this section unless the court determines that the
21 juvenile has the resources to pay the ordered restitution and has
22 not made a good faith effort to do so.

23 (16) ~~(15)~~—If the court determines that the juvenile is or will
24 be unable to pay all of the restitution ordered, after notice to
25 the juvenile's parent or parents and an opportunity for the parent
26 or parents to be heard, the court may order the parent or parents
27 having supervisory responsibility for the juvenile at the time of

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

8 (17) ~~(16)~~—If the court orders a parent to pay restitution
9 under subsection ~~(15)~~—(16), the court shall take into account the
10 parent's financial resources and the burden that the payment of
11 restitution will impose, with due regard to any other moral or
12 legal financial obligations the parent may have. If a parent is
13 required to pay restitution under subsection ~~(15)~~—(16), the court
14 shall provide for payment to be made in specified installments and
15 within a specified period of time.

16 (18) ~~(17)~~—A parent who has been ordered to pay restitution
17 under subsection ~~(15)~~—(16) may petition the court for a
18 modification of the amount of restitution owed by the parent or for
19 a cancellation of any unpaid portion of the parent's obligation.
20 The court shall cancel all or part of the parent's obligation due
21 if the court determines that payment of the amount due will impose
22 a manifest hardship on the parent and if the court also determines
23 that modifying the method of payment will not impose a manifest
24 hardship on the victim.

25 (19) ~~(18)~~—In each case in which payment of restitution is
26 ordered as a condition of probation, the court shall order any
27 employed juvenile to make regularly scheduled restitution payments.

1 If the juvenile misses 2 or more regularly scheduled payments, the
2 court shall order the juvenile to execute a wage assignment to pay
3 the restitution. The juvenile caseworker or probation officer
4 assigned to the case shall review the case not less than twice
5 yearly to ensure that restitution is being paid as ordered. If the
6 restitution was ordered to be made within a specific period of
7 time, the juvenile caseworker or probation officer assigned to the
8 case shall review the case at the end of the specific period of
9 time to determine if the restitution has been paid in full. The
10 final review shall be conducted not less than 60 days before the
11 probationary period expires. If the juvenile caseworker or
12 probation officer determines at any review the restitution is not
13 being paid as ordered, the juvenile caseworker or probation officer
14 shall file a written report of the violation with the court on a
15 form prescribed by the state court administrative office or shall
16 petition the court for a probation violation. The report or
17 petition shall include a statement of the amount of the arrearage,
18 and any reasons for the arrearage known by the juvenile caseworker
19 or probation officer. The juvenile caseworker or probation officer
20 shall immediately provide a copy of the report or petition to the
21 prosecuting attorney. If a petition or motion is filed or other
22 proceedings are initiated to enforce payment of restitution and the
23 court determines that restitution is not being paid or has not been
24 paid as ordered by the court, the court shall promptly take action
25 necessary to compel compliance.

26 (20) ~~(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 (21) ~~(20)~~—The court shall not impose a fee on a victim,
6 victim's estate, or prosecuting attorney for enforcing an order of
7 restitution.

8 (22) ~~(21)~~—If a person or entity entitled to restitution under
9 this section cannot be located, refuses to claim the restitution
10 within 2 years after the date on which he or she could have claimed
11 the restitution, or refuses to accept the restitution, the
12 restitution to which that person or entity is entitled shall be
13 deposited in the crime victim's rights fund created under section 4
14 of 1989 PA 196, MCL 780.904, or its successor fund. However, a
15 person or entity entitled to that restitution may claim that
16 restitution any time by applying to the court that originally
17 ordered and collected it. The court shall notify the crime victim
18 services commission of the application and the commission shall
19 approve a reduction in the court's revenue transmittal to the crime
20 victim's rights fund equal to the restitution owed to the person or
21 entity. The court shall use the reduction to reimburse that
22 restitution to the person or entity.

23 (23) ~~(22)~~—The court may amend an order of restitution entered
24 under this section on a motion by the prosecuting attorney, the
25 victim, or the defendant based upon new information related to the
26 injury, damages, or loss for which the restitution was ordered.

27 (24) ~~(23)~~—A court that receives notice that a defendant who

1 has an obligation to pay restitution under this section has
2 declared bankruptcy shall forward a copy of that notice to the
3 prosecuting attorney. The prosecuting attorney shall forward the
4 notice to the victim at the victim's last known address.

5 (25) ~~(24)~~—If the victim is a minor, the order of restitution
6 shall require the defendant to pay to a parent of the victim an
7 amount that is determined to be reasonable for any of the following
8 that are actually incurred or reasonably expected to be incurred by
9 the parent as a result of the crime:

10 (a) Homemaking and child care expenses.

11 (b) Income loss not ordered to be paid under subsection
12 (4) (h).

13 (c) Mileage.

14 (d) Lodging or housing.

15 (e) Meals.

16 (f) Any other cost incurred in exercising the rights of the
17 victim or a parent under this act.

18 Sec. 64a. (1) To facilitate compliance with **SECTIONS 11 AND 13**
19 **OF THE IDENTITY THEFT PROTECTION ACT, 2004 PA 452, MCL 445.71 AND**
20 **445.73, AND** 15 USC 1681g, a bona fide victim of identity theft is
21 entitled to file a police report with a law enforcement agency in a
22 jurisdiction where the alleged violation of identity theft may be
23 prosecuted as provided under section 10c of chapter II of the code
24 of criminal procedure, 1927 PA 175, MCL 762.10c, and to obtain a
25 copy of that report from that law enforcement agency.

26 (2) As used in this section, "identity theft" means that term
27 as defined in section 3 of the identity theft protection act, **2004**

1 PA 452, MCL 445.63.

2 Sec. 76. (1) As used in this section only:

3 (a) "Misdemeanor" means a violation of a law of this state or
4 a local ordinance that is punishable by imprisonment for not more
5 than 1 year or a fine that is not a civil fine, but that is not a
6 felony.

7 (b) "Victim" means an individual who suffers direct or
8 threatened physical, financial, or emotional harm as a result of
9 the commission of a misdemeanor. As used in subsections (2), (3),
10 (6), ~~(8)~~, (9), and ~~(13)~~ **(10)**, **AND (14)** only, victim includes a sole
11 proprietorship, partnership, corporation, association, governmental
12 entity, or any other legal entity that suffers direct physical or
13 financial harm as a result of a misdemeanor.

14 (2) Except as provided in subsection ~~(8)~~ **(9)**, when sentencing
15 a defendant convicted of a misdemeanor, the court shall order, in
16 addition to or in lieu of any other penalty authorized by law or in
17 addition to any other penalty required by law, that the defendant
18 make full restitution to any victim of the defendant's course of
19 conduct that gives rise to the conviction or to the victim's
20 estate. For an offense that is resolved by assignment of the
21 defendant to youthful trainee status, by a delayed sentence or
22 deferred judgment of guilt, or in another way that is not an
23 acquittal or unconditional dismissal, the court shall order the
24 restitution required under this section.

25 (3) If a misdemeanor results in damage to or loss or
26 destruction of property of a victim of the misdemeanor or results
27 in the seizure or impoundment of property of a victim of the

1 misdemeanor, the order of restitution shall require that the
2 defendant do 1 or more of the following, as applicable:

3 (a) Return the property to the owner of the property or to a
4 person designated by the owner.

5 (b) If return of the property under subdivision (a) is
6 impossible, impractical, or inadequate, pay an amount equal to the
7 greater of subparagraph (i) or (ii), less the value, determined as of
8 the date the property is returned, of that property or any part of
9 the property that is returned:

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

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

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

14 (4) If a misdemeanor results in physical or psychological
15 injury to a victim, the order of restitution shall require that the
16 defendant do 1 or more of the following, as applicable:

17 (a) Pay an amount equal to the reasonably determined cost of
18 medical and related professional services and devices actually
19 incurred and reasonably expected to be incurred relating to
20 physical and psychological care.

21 (b) Pay an amount equal to the reasonably determined cost of
22 physical and occupational therapy and rehabilitation actually
23 incurred and reasonably expected to be incurred.

24 (c) Reimburse the victim or the victim's estate for after-tax
25 income loss suffered by the victim as a result of the misdemeanor.

26 (d) Pay an amount equal to the reasonably determined cost of
27 psychological and medical treatment for members of the victim's

1 family actually incurred and reasonably expected to be incurred as
2 a result of the misdemeanor.

3 (e) Pay an amount equal to the reasonably determined costs of
4 homemaking and child care expenses actually incurred and reasonably
5 expected to be incurred as a result of the misdemeanor or, if
6 homemaking or child care is provided without compensation by a
7 relative, friend, or any other person, an amount equal to the costs
8 that would reasonably be incurred as a result of the misdemeanor
9 for that homemaking and child care, based on the rates in the area
10 for comparable services.

11 (f) Pay an amount equal to the cost of actual funeral and
12 related services.

13 (g) If the deceased victim could be claimed as a dependent by
14 his or her parent or guardian on the parent's or guardian's
15 federal, state, or local income tax returns, pay an amount equal to
16 the loss of the tax deduction or tax credit. The amount of
17 reimbursement shall be estimated for each year the victim could
18 reasonably be claimed as a dependent.

19 (h) Pay an amount equal to income actually lost by the spouse,
20 parent, sibling, child, or grandparent of the victim because the
21 family member left his or her employment, temporarily or
22 permanently, to care for the victim because of the injury.

23 (5) If a crime resulting in bodily injury also results in the
24 death of a victim or serious impairment of a body function of a
25 victim, the court may order up to 3 times the amount of restitution
26 otherwise allowed under this section. As used in this subsection,
27 "serious impairment of a body function of a victim" includes, but

1 is not limited to, 1 or more of the following:

- 2 (a) Loss of a limb or use of a limb.
- 3 (b) Loss of a hand or foot or use of a hand or foot.
- 4 (c) Loss of an eye or use of an eye or ear.
- 5 (d) Loss or substantial impairment of a bodily function.
- 6 (e) Serious visible disfigurement.
- 7 (f) A comatose state that lasts for more than 3 days.
- 8 (g) Measurable brain damage or mental impairment.
- 9 (h) A skull fracture or other serious bone fracture.
- 10 (i) Subdural hemorrhage or subdural hematoma.
- 11 (j) Loss of a body organ.

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

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

17 **(8) IF THE VICTIM IS THE VICTIM OF IDENTITY THEFT AS THAT TERM**
18 **IS DEFINED IN SECTION 3 OF THE IDENTITY THEFT PROTECTION ACT, 2004**
19 **PA 452, MCL 445.63, THEN THE COURT SHALL ORDER RESTITUTION TO**
20 **COMPENSATE THE VICTIM IN FULL FOR THE WORK DONE BY THE VICTIM OR**
21 **THE VICTIM'S ATTORNEY, OR BOTH, TO RECTIFY THE VICTIM'S FINANCIAL**
22 **RECORDS AND VITAL RECORDS AND TO AMELIORATE THE EFFECTS OF THE**
23 **IDENTITY THEFT ON THE VICTIM'S FINANCIAL AFFAIRS, INCLUDING, BUT**
24 **NOT LIMITED TO, CREDIT HISTORY, CREDIT RATING, OR CREDIT SCORE.**

25 (9) ~~(8)~~—The court shall order restitution to the crime victim
26 services commission or to any individuals, partnerships,
27 corporations, associations, governmental entities, or other legal

1 entities that have compensated the victim or the victim's estate
2 for a loss incurred by the victim to the extent of the compensation
3 paid for that loss. The court shall also order restitution for the
4 costs of services provided to persons or entities that have
5 provided services to the victim as a result of the misdemeanor.
6 Services that are subject to restitution under this subsection
7 include, but are not limited to, shelter, food, clothing, and
8 transportation. However, an order of restitution shall require that
9 all restitution to a victim or victim's estate under the order be
10 made before any restitution to any other person or entity under
11 that order is made. The court shall not order restitution to be
12 paid to a victim or victim's estate if the victim or victim's
13 estate has received or is to receive compensation for that loss,
14 and the court shall state on the record with specificity the
15 reasons for its action.

16 (10) ~~(9)~~—Any amount paid to a victim or victim's estate under
17 an order of restitution shall be set off against any amount later
18 recovered as compensatory damages by the victim or the victim's
19 estate in any federal or state civil proceeding and shall reduce
20 the amount payable to a victim or a victim's estate by an award
21 from the crime victim services commission made after an order of
22 restitution under this section.

23 (11) ~~(10)~~—If not otherwise provided by the court under this
24 subsection, restitution shall be made immediately. However, the
25 court may require that the defendant make restitution under this
26 section within a specified period or in specified installments.

27 (12) ~~(11)~~—If the defendant is placed on probation or the court

1 imposes a conditional sentence as provided in section 3 of chapter
2 IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any
3 restitution ordered under this section shall be a condition of that
4 probation or sentence. The court may revoke probation or impose
5 imprisonment under the conditional sentence if the defendant fails
6 to comply with the order and if the defendant has not made a good
7 faith effort to comply with the order. In determining whether to
8 revoke probation or impose imprisonment, the court shall consider
9 the defendant's employment status, earning ability, and financial
10 resources, the willfulness of the defendant's failure to pay, and
11 any other special circumstances that may have a bearing on the
12 defendant's ability to pay.

13 (13) ~~(12)~~—Subject to subsection ~~(15)~~—(16), a defendant who is
14 required to pay restitution and who is not in willful default of
15 the payment of the restitution may at any time petition the
16 sentencing judge or his or her successor to modify the method of
17 payment. If the court determines that payment under the order will
18 impose a manifest hardship on the defendant or his or her immediate
19 family, and if the court also determines that modifying the method
20 of payment will not impose a manifest hardship on the victim, the
21 court may modify the method of payment.

22 (14) ~~(13)~~—An order of restitution entered under this section
23 remains effective until it is satisfied in full. An order of
24 restitution is a judgment and lien against all property of the
25 defendant for the amount specified in the order of restitution. The
26 lien may be recorded as provided by law. An order of restitution
27 may be enforced by the prosecuting attorney, a victim, a victim's

1 estate, or any other person or entity named in the order to receive
2 restitution in the same manner as a judgment in a civil action or a
3 lien.

4 (15) ~~(14)~~ Notwithstanding any other provision of this section,
5 a defendant shall not be imprisoned, jailed, or incarcerated for a
6 violation of probation or otherwise for failure to pay restitution
7 as ordered under this section unless the court determines that the
8 defendant has the resources to pay the ordered restitution and has
9 not made a good faith effort to do so.

10 (16) ~~(15)~~ In each case in which payment of restitution is
11 ordered as a condition of probation, the court shall order any
12 employed defendant to make regularly scheduled restitution
13 payments. If the defendant misses 2 or more regularly scheduled
14 payments, the court shall order the defendant to execute a wage
15 assignment to pay the restitution. The probation officer assigned
16 to the case shall review the case not less than twice yearly to
17 ensure that restitution is being paid as ordered. If the
18 restitution was ordered to be made within a specific period of
19 time, the probation officer assigned to the case shall review the
20 case at the end of the specific period of time to determine if the
21 restitution has been paid in full. The final review shall be
22 conducted not less than 60 days before the probationary period
23 expires. If the probation officer determines at any review that
24 restitution is not being paid as ordered, the probation officer
25 shall file a written report of the violation with the court on a
26 form prescribed by the state court administrative office or shall
27 petition the court for a probation violation. The report or

1 petition shall include a statement of the amount of the arrearage
2 and any reasons for the arrearage known by the probation officer.
3 The probation officer shall immediately provide a copy of the
4 report or petition to the prosecuting attorney. If a petition or
5 motion is filed or other proceedings are initiated to enforce
6 payment of restitution and the court determines that restitution is
7 not being paid or has not been paid as ordered by the court, the
8 court shall promptly take action necessary to compel compliance.

9 (17) ~~(16)~~—If the court determines that a defendant who is
10 ordered to pay restitution under this section is remanded to the
11 jurisdiction of the department of corrections, the court shall
12 provide a copy of the order of restitution to the department of
13 corrections when the court determines that the defendant is
14 remanded to the department's jurisdiction.

15 (18) ~~(17)~~—The court shall not impose a fee on a victim,
16 victim's estate, or prosecuting attorney for enforcing an order of
17 restitution.

18 (19) ~~(18)~~—If a person or entity entitled to restitution under
19 this section cannot be located, refuses to claim the restitution
20 within 2 years after the date on which he or she could have claimed
21 the restitution, or refuses to accept the restitution, the
22 restitution to which that person or entity is entitled shall be
23 deposited in the crime victim's rights fund created under section 4
24 of 1989 PA 196, MCL 780.904, or its successor fund. However, a
25 person or entity entitled to that restitution may claim that
26 restitution any time by applying to the court that originally
27 ordered and collected it. The court shall notify the crime victim

1 services commission of the application and the commission shall
2 approve a reduction in the court's revenue transmittal to the crime
3 victim's rights fund equal to the restitution owed to the person or
4 entity. The court shall use the reduction to reimburse that
5 restitution to the person or entity.

6 (20) ~~(19)~~—The court may amend an order of restitution entered
7 under this section on a motion by the prosecuting attorney, the
8 victim, or the defendant based upon new information related to the
9 injury, damages, or loss for which the restitution was ordered.

10 (21) ~~(20)~~—A court that receives notice that a defendant who
11 has an obligation to pay restitution under this section has
12 declared bankruptcy shall forward a copy of that notice to the
13 prosecuting attorney. The prosecuting attorney shall forward the
14 notice to the victim at the victim's last known address.

15 (22) ~~(21)~~—If the victim is a minor, the order of restitution
16 shall require the defendant pay to a parent of the victim an amount
17 that is determined to be reasonable for any of the following that
18 are actually incurred or reasonably expected to be incurred by the
19 parent as a result of the crime:

20 (a) Homemaking and child care expenses.

21 (b) Income loss not ordered to be paid under subsection
22 (4) (h).

23 (c) Mileage.

24 (d) Lodging or housing.

25 (e) Meals.

26 (f) Any other cost incurred in exercising the rights of the
27 victim or a parent under this act.

1 Enacting section 1. This amendatory act does not take effect
2 unless all of the following bills of the 94th Legislature are
3 enacted into law:

4 (a) House Bill No. 6096.

5 (b) House Bill No. 6098.