

HOUSE BILL No. 5900

March 13, 2008, Introduced by Reps. Condino, Bieda, Polidori, Corriveau, Accavitti, Virgil Smith, Meadows, Wojno, Kathleen Law, Leland, Johnson, Jackson, Donigan, Robert Jones, Dean and Hammon 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 the title and section 23 (MCL 780.773), the title as amended by 1988 PA 22 and section 23 as amended by 1988 PA 21, and by adding section 12a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to establish the rights of victims of crime and juvenile offenses; to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers' agents toward victims; **TO REQUIRE EMPLOYERS TO PROVIDE UNPAID LEAVE TO VICTIMS TO ATTEND COURT PROCEEDINGS;** and to provide for penalties and remedies.

1 SEC. 12A. (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 STATEMENT FROM THE PROSECUTING ATTORNEY CONFIRMING THAT
11 THE EMPLOYEE IS A VICTIM. THE STATEMENT REQUIRED UNDER THIS
12 SUBDIVISION SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT OF
13 ATTORNEY GENERAL.

14 (3) AN EMPLOYEE WHO IS GRANTED UNPAID LEAVE UNDER THIS SECTION
15 SHALL PROVIDE HIS OR HER EMPLOYER WITH A STATEMENT FROM THE CLERK
16 OF THE COURT IN WHICH THE TRIAL OR COURT PROCEEDING OCCURRED
17 CONFIRMING THE DATE AND TIME THAT THE EMPLOYEE ATTENDED THE TRIAL
18 OR COURT PROCEEDING. THE STATEMENT REQUIRED UNDER THIS SUBSECTION
19 SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT OF ATTORNEY
20 GENERAL.

21 (4) AN EMPLOYER SHALL NOT DISCHARGE AN EMPLOYEE FOR, OR
22 PROHIBIT OR DISCOURAGE AN EMPLOYEE FROM, REQUESTING UNPAID LEAVE
23 UNDER THIS SECTION. AN EMPLOYER WHO VIOLATES THIS SUBSECTION IS
24 LIABLE TO AN EMPLOYEE IN A CIVIL ACTION FOR ALL DAMAGES INCURRED,
25 INCLUDING REASONABLE ATTORNEY FEES.

26 (5) AN EMPLOYEE WHO IS A VICTIM SHALL NOT LOSE SENIORITY AND
27 OTHER RIGHTS AND BENEFITS THAT ARE DETERMINED BY SENIORITY FOR

1 USING LEAVE TIME TO ATTEND A TRIAL OR OTHER COURT PROCEEDING OF THE
2 DEFENDANT.

3 (6) AS USED IN THIS SECTION:

4 (A) "EMPLOYEE" MEANS A PERSON WHO PERFORMS A SERVICE FOR WAGES
5 OR OTHER REMUNERATION UNDER A CONTRACT OF HIRE, WRITTEN OR ORAL,
6 EXPRESS OR IMPLIED. EMPLOYEE INCLUDES A PERSON EMPLOYED BY THIS
7 STATE OR A POLITICAL SUBDIVISION OF THIS STATE, EXCEPT STATE
8 CLASSIFIED CIVIL SERVICE.

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

12 Sec. 23. ~~Nothing in this article shall be construed as~~
13 ~~creating~~ EXCEPT AS PROVIDED IN SECTION 12A, THIS ARTICLE DOES NOT
14 CREATE a cause of action for money damages against the state, a
15 county, OR a municipality or any of ~~their~~ ITS agencies, ~~or~~
16 instrumentalities, or employees.

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

20 (a) Senate Bill No. ____ or House Bill No. 5902 (request no.
21 06589'08).

22 (b) Senate Bill No. ____ or House Bill No. 5901 (request no.
23 06590'08).