

# HOUSE BILL No. 6097

May 8, 2008, Introduced by Rep. Shaffer 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 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  
6 prosecuted as provided under section 10c of chapter II of the code  
7 of criminal procedure, 1927 PA 175, MCL 762.10c, and to obtain a

1 copy of that report from that law enforcement agency.

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

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

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

23 (3) If a crime results in damage to or loss or destruction of  
24 property of a victim of the crime or results in the seizure or  
25 impoundment of property of a victim of the crime, the order of  
26 restitution shall require that the defendant do 1 or more of the  
27 following, as applicable:

1 (a) Return the property to the owner of the property or to a  
2 person designated by the owner.

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

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

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

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

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

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

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

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

24 (d) Pay an amount equal to the reasonably determined cost of  
25 psychological and medical treatment for members of the victim's  
26 family actually incurred and reasonably expected to be incurred as  
27 a result of the crime.

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

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

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

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

21 (5) If a crime resulting in bodily injury also results in the  
22 death of a victim or serious impairment of a body function of a  
23 victim, the court may order up to 3 times the amount of restitution  
24 otherwise allowed under this section. As used in this subsection,  
25 "serious impairment of a body function of a victim" includes, but  
26 is not limited to, 1 or more of the following:

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

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

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

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

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

23 (9) ~~(8)~~—The court shall order restitution to the crime victim  
24 services commission or to any individuals, partnerships,  
25 corporations, associations, governmental entities, or other legal  
26 entities that have compensated the victim or the victim's estate  
27 for a loss incurred by the victim to the extent of the compensation

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

13 (10) ~~(9)~~—Any amount paid to a victim or victim's estate under  
14 an order of restitution shall be set off against any amount later  
15 recovered as compensatory damages by the victim or the victim's  
16 estate in any federal or state civil proceeding and shall reduce  
17 the amount payable to a victim or a victim's estate by an award  
18 from the crime victim services commission made after an order of  
19 restitution under this section.

20 (11) ~~(10)~~—If not otherwise provided by the court under this  
21 subsection, restitution shall be made immediately. However, the  
22 court may require that the defendant make restitution under this  
23 section within a specified period or in specified installments.

24 (12) ~~(11)~~—If the defendant is placed on probation or paroled  
25 or the court imposes a conditional sentence as provided in section  
26 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL  
27 769.3, any restitution ordered under this section shall be a

1 condition of that probation, parole, or sentence. The court may  
2 revoke probation or impose imprisonment under the conditional  
3 sentence and the parole board may revoke parole if the defendant  
4 fails to comply with the order and if the defendant has not made a  
5 good faith effort to comply with the order. In determining whether  
6 to revoke probation or parole or impose imprisonment, the court or  
7 parole board shall consider the defendant's employment status,  
8 earning ability, and financial resources, the willfulness of the  
9 defendant's failure to pay, and any other special circumstances  
10 that may have a bearing on the defendant's ability to pay.

11 (13) ~~(12)~~—Subject to subsection ~~(18)~~—(19), a defendant who is  
12 required to pay restitution and who is not in willful default of  
13 the payment of the restitution may at any time petition the  
14 sentencing judge or his or her successor to modify the method of  
15 payment. If the court determines that payment under the order will  
16 impose a manifest hardship on the defendant or his or her immediate  
17 family, and if the court also determines that modifying the method  
18 of payment will not impose a manifest hardship on the victim, the  
19 court may modify the method of payment.

20 (14) ~~(13)~~—An order of restitution entered under this section  
21 remains effective until it is satisfied in full. An order of  
22 restitution is a judgment and lien against all property of the  
23 defendant for the amount specified in the order of restitution. The  
24 lien may be recorded as provided by law. An order of restitution  
25 may be enforced by the prosecuting attorney, a victim, a victim's  
26 estate, or any other person or entity named in the order to receive  
27 the restitution in the same manner as a judgment in a civil action

1 or a lien.

2 (15) ~~(14)~~—Notwithstanding any other provision of this section,  
3 a defendant shall not be imprisoned, jailed, or incarcerated for a  
4 violation of probation or parole or otherwise for failure to pay  
5 restitution as ordered under this section unless the court or  
6 parole board determines that the defendant has the resources to pay  
7 the ordered restitution and has not made a good faith effort to do  
8 so.

9 (16) ~~(15)~~—If the court determines that a juvenile is or will  
10 be unable to pay all of the restitution ordered, after notice to  
11 the juvenile's parent or parents and an opportunity for the parent  
12 or parents to be heard the court may order the parent or parents  
13 having supervisory responsibility for the juvenile at the time of  
14 the acts upon which an order of restitution is based to pay any  
15 portion of the restitution ordered that is outstanding. An order  
16 under this subsection does not relieve the juvenile of his or her  
17 obligation to pay restitution as ordered, but the amount owed by  
18 the juvenile shall be offset by any amount paid by his or her  
19 parent. As used in this subsection:

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

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

24 (17) ~~(16)~~—If the court orders a parent to pay restitution  
25 under subsection ~~(15)~~—(16), the court shall take into account the  
26 parent's financial resources and the burden that the payment of  
27 restitution will impose, with due regard to any other moral or



1 legal financial obligations the parent may have. If a parent is  
2 required to pay restitution under subsection ~~(15)~~-(16), the court  
3 shall provide for payment to be made in specified installments and  
4 within a specified period of time.

5 (18) ~~(17)~~-A parent who has been ordered to pay restitution  
6 under subsection ~~(15)~~-(16) may petition the court for a  
7 modification of the amount of restitution owed by the parent or for  
8 a cancellation of any unpaid portion of the parent's obligation.  
9 The court shall cancel all or part of the parent's obligation due  
10 if the court determines that payment of the amount due will impose  
11 a manifest hardship on the parent and if the court also determines  
12 that modifying the method of payment will not impose a manifest  
13 hardship on the victim.

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

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

13 (20) ~~(19)~~—If a defendant who is ordered to pay restitution  
14 under this section is remanded to the jurisdiction of the  
15 department of corrections, the court shall provide a copy of the  
16 order of restitution to the department of corrections when the  
17 defendant is remanded to the department's jurisdiction.

18 (21) ~~(20)~~—The court shall not impose a fee on a victim,  
19 victim's estate, or prosecuting attorney for enforcing an order of  
20 restitution.

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

1 person or entity entitled to that restitution may claim that  
2 restitution any time by applying to the court that originally  
3 ordered and collected it. The court shall notify the crime victim  
4 services commission of the application and the commission shall  
5 approve a reduction in the court's revenue transmittal to the crime  
6 victim's rights fund equal to the restitution owed to the person or  
7 entity. The court shall use the reduction to reimburse that  
8 restitution to the person or entity.

9       (23) ~~(22)~~—The court may amend an order of restitution entered  
10 under this section on a motion by the prosecuting attorney, the  
11 victim, or the defendant based upon new information related to the  
12 injury, damages, or loss for which the restitution was ordered.

13       (24) ~~(23)~~—A court that receives notice that a defendant who  
14 has an obligation to pay restitution under this section has  
15 declared bankruptcy shall forward a copy of that notice to the  
16 prosecuting attorney. The prosecuting attorney shall forward the  
17 notice to the victim at the victim's last known address.

18       (25) ~~(24)~~—If the victim is a minor, the order of restitution  
19 shall require the defendant to pay to a parent of the victim an  
20 amount that is determined to be reasonable for any of the following  
21 that are actually incurred or reasonably expected to be incurred by  
22 the parent as a result of the crime:

23       (a) Homemaking and child care expenses.

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

25       (4) (h) .

26       (c) Mileage.

27       (d) Lodging or housing.

1 (e) Meals.

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

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

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

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

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

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

27 (2) Except as provided in subsection ~~(8)~~ **(9)**, at the

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

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

17 (a) Return the property to the owner of the property or to a  
18 person designated by the owner.

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

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

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

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

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

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

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

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

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

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

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

27           (g) If the deceased victim could be claimed as a dependent by

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

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

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

- 16 (a) Loss of a limb or use of a limb.  
17 (b) Loss of a hand or foot or use of a hand or foot.  
18 (c) Loss of an eye or use of an eye or ear.  
19 (d) Loss or substantial impairment of a bodily function.  
20 (e) Serious visible disfigurement.  
21 (f) A comatose state that lasts for more than 3 days.  
22 (g) Measurable brain damage or mental impairment.  
23 (h) A skull fracture or other serious bone fracture.  
24 (i) Subdural hemorrhage or subdural hematoma.  
25 (j) Loss of a body organ.

26 (6) If the victim or victim's estate consents, the order of  
27 restitution may require that the juvenile make restitution in

1 services in lieu of money.

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

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

12 (9) ~~(8)~~—The court shall order restitution to the crime victim  
13 services commission or to any individuals, partnerships,  
14 corporations, associations, governmental entities, or other legal  
15 entities that have compensated the victim or the victim's estate  
16 for a loss incurred by the victim to the extent of the compensation  
17 paid for that loss. The court shall also order restitution for the  
18 costs of services provided to persons or entities that have  
19 provided services to the victim as a result of the offense.  
20 Services that are subject to restitution under this subsection  
21 include, but are not limited to, shelter, food, clothing, and  
22 transportation. However, an order of restitution shall require that  
23 all restitution to a victim or victim's estate under the order be  
24 made before any restitution to any other person or entity under  
25 that order is made. The court shall not order restitution to be  
26 paid to a victim or victim's estate if the victim or victim's  
27 estate has received or is to receive compensation for that loss,



1 and the court shall state on the record with specificity the  
2 reasons for its action.

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

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

14 (12) ~~(11)~~—If the juvenile is placed on probation, any  
15 restitution ordered under this section shall be a condition of that  
16 probation. The court may revoke probation if the juvenile fails to  
17 comply with the order and if the juvenile has not made a good faith  
18 effort to comply with the order. In determining whether to revoke  
19 probation, the court shall consider the juvenile's employment  
20 status, earning ability, and financial resources, the willfulness  
21 of the juvenile's failure to pay, and any other special  
22 circumstances that may have a bearing on the juvenile's ability to  
23 pay.

24 (13) ~~(12)~~—Subject to subsection ~~(18)~~—(19), a juvenile who is  
25 required to pay restitution and who is not in willful default of  
26 the payment of the restitution may at any time petition the court  
27 to modify the method of payment. If the court determines that

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

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

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

21 (16) ~~(15)~~—If the court determines that the juvenile is or will  
22 be unable to pay all of the restitution ordered, after notice to  
23 the juvenile's parent or parents and an opportunity for the parent  
24 or parents to be heard, the court may order the parent or parents  
25 having supervisory responsibility for the juvenile at the time of  
26 the acts upon which an order of restitution is based to pay any  
27 portion of the restitution ordered that is outstanding. An order

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

6 (17) ~~(16)~~—If the court orders a parent to pay restitution  
7 under subsection ~~(15)~~—(16), the court shall take into account the  
8 parent's financial resources and the burden that the payment of  
9 restitution will impose, with due regard to any other moral or  
10 legal financial obligations the parent may have. If a parent is  
11 required to pay restitution under subsection (15), the court shall  
12 provide for payment to be made in specified installments and within  
13 a specified period of time.

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

23 (19) ~~(18)~~—In each case in which payment of restitution is  
24 ordered as a condition of probation, the court shall order any  
25 employed juvenile to make regularly scheduled restitution payments.  
26 If the juvenile misses 2 or more regularly scheduled payments, the  
27 court shall order the juvenile to execute a wage assignment to pay

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

24       (20) ~~(19)~~—If the court determines that an individual who is  
25 ordered to pay restitution under this section is remanded to the  
26 jurisdiction of the department of corrections, the court shall  
27 provide a copy of the order of restitution to the department of

1 corrections when the court determines that the individual is  
2 remanded to the department's jurisdiction.

3 (21) ~~(20)~~—The court shall not impose a fee on a victim,  
4 victim's estate, or prosecuting attorney for enforcing an order of  
5 restitution.

6 (22) ~~(21)~~—If a person or entity entitled to restitution under  
7 this section cannot be located, refuses to claim the restitution  
8 within 2 years after the date on which he or she could have claimed  
9 the restitution, or refuses to accept the restitution, the  
10 restitution to which that person or entity is entitled shall be  
11 deposited in the crime victim's rights fund created under section 4  
12 of 1989 PA 196, MCL 780.904, or its successor fund. However, a  
13 person or entity entitled to that restitution may claim that  
14 restitution any time by applying to the court that originally  
15 ordered and collected it. The court shall notify the crime victim  
16 services commission of the application and the commission shall  
17 approve a reduction in the court's revenue transmittal to the crime  
18 victim's rights fund equal to the restitution owed to the person or  
19 entity. The court shall use the reduction to reimburse that  
20 restitution to the person or entity.

21 (23) ~~(22)~~—The court may amend an order of restitution entered  
22 under this section on a motion by the prosecuting attorney, the  
23 victim, or the defendant based upon new information related to the  
24 injury, damages, or loss for which the restitution was ordered.

25 (24) ~~(23)~~—A court that receives notice that a defendant who  
26 has an obligation to pay restitution under this section has  
27 declared bankruptcy shall forward a copy of that notice to the

1 prosecuting attorney. The prosecuting attorney shall forward the  
2 notice to the victim at the victim's last known address.

3 (25) ~~(24)~~—If the victim is a minor, the order of restitution  
4 shall require the defendant to pay to a parent of the victim an  
5 amount that is determined to be reasonable for any of the following  
6 that are actually incurred or reasonably expected to be incurred by  
7 the parent as a result of the crime:

8 (a) Homemaking and child care expenses.

9 (b) Income loss not ordered to be paid under subsection  
10 (4) (h).

11 (c) Mileage.

12 (d) Lodging or housing.

13 (e) Meals.

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

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

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

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

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

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

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

23 (3) If a misdemeanor results in damage to or loss or  
24 destruction of property of a victim of the misdemeanor or results  
25 in the seizure or impoundment of property of a victim of the  
26 misdemeanor, the order of restitution shall require that the  
27 defendant do 1 or more of the following, as applicable:

1 (a) Return the property to the owner of the property or to a  
2 person designated by the owner.

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

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

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

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

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

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

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

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

24 (d) Pay an amount equal to the reasonably determined cost of  
25 psychological and medical treatment for members of the victim's  
26 family actually incurred and reasonably expected to be incurred as  
27 a result of the misdemeanor.



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

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

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

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

21           (5) If a crime resulting in bodily injury also results in the  
22 death of a victim or serious impairment of a body function of a  
23 victim, the court may order up to 3 times the amount of restitution  
24 otherwise allowed under this section. As used in this subsection,  
25 "serious impairment of a body function of a victim" includes, but  
26 is not limited to, 1 or more of the following:

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

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

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

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

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

23 (9) ~~(8)~~—The court shall order restitution to the crime victim  
24 services commission or to any individuals, partnerships,  
25 corporations, associations, governmental entities, or other legal  
26 entities that have compensated the victim or the victim's estate  
27 for a loss incurred by the victim to the extent of the compensation

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

14 (10) ~~(9)~~ Any amount paid to a victim or victim's estate under  
15 an order of restitution shall be set off against any amount later  
16 recovered as compensatory damages by the victim or the victim's  
17 estate in any federal or state civil proceeding and shall reduce  
18 the amount payable to a victim or a victim's estate by an award  
19 from the crime victim services commission made after an order of  
20 restitution under this section.

21 (11) ~~(10)~~ If not otherwise provided by the court under this  
22 subsection, restitution shall be made immediately. However, the  
23 court may require that the defendant make restitution under this  
24 section within a specified period or in specified installments.

25 (12) ~~(11)~~ If the defendant is placed on probation or the court  
26 imposes a conditional sentence as provided in section 3 of chapter  
27 IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any

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

11 (13) ~~(12)~~ Subject to subsection ~~(15)~~ **(16)**, a defendant who is  
12 required to pay restitution and who is not in willful default of  
13 the payment of the restitution may at any time petition the  
14 sentencing judge or his or her successor to modify the method of  
15 payment. If the court determines that payment under the order will  
16 impose a manifest hardship on the defendant or his or her immediate  
17 family, and if the court also determines that modifying the method  
18 of payment will not impose a manifest hardship on the victim, the  
19 court may modify the method of payment.

20 (14) ~~(13)~~ An order of restitution entered under this section  
21 remains effective until it is satisfied in full. An order of  
22 restitution is a judgment and lien against all property of the  
23 defendant for the amount specified in the order of restitution. The  
24 lien may be recorded as provided by law. An order of restitution  
25 may be enforced by the prosecuting attorney, a victim, a victim's  
26 estate, or any other person or entity named in the order to receive  
27 restitution in the same manner as a judgment in a civil action or a

1 lien.

2 (15) ~~(14)~~ Notwithstanding any other provision of this section,  
3 a defendant shall not be imprisoned, jailed, or incarcerated for a  
4 violation of probation or otherwise for failure to pay restitution  
5 as ordered under this section unless the court determines that the  
6 defendant has the resources to pay the ordered restitution and has  
7 not made a good faith effort to do so.

8 (16) ~~(15)~~ In each case in which payment of restitution is  
9 ordered as a condition of probation, the court shall order any  
10 employed defendant to make regularly scheduled restitution  
11 payments. If the defendant misses 2 or more regularly scheduled  
12 payments, the court shall order the defendant to execute a wage  
13 assignment to pay the restitution. The probation officer assigned  
14 to the case shall review the case not less than twice yearly to  
15 ensure that restitution is being paid as ordered. If the  
16 restitution was ordered to be made within a specific period of  
17 time, the probation officer assigned to the case shall review the  
18 case at the end of the specific period of time to determine if the  
19 restitution has been paid in full. The final review shall be  
20 conducted not less than 60 days before the probationary period  
21 expires. If the probation officer determines at any review that  
22 restitution is not being paid as ordered, the probation officer  
23 shall file a written report of the violation with the court on a  
24 form prescribed by the state court administrative office or shall  
25 petition the court for a probation violation. The report or  
26 petition shall include a statement of the amount of the arrearage  
27 and any reasons for the arrearage known by the probation officer.

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

7 (17) ~~(16)~~—If the court determines that a defendant who is  
8 ordered to pay restitution under this section is remanded to the  
9 jurisdiction of the department of corrections, the court shall  
10 provide a copy of the order of restitution to the department of  
11 corrections when the court determines that the defendant is  
12 remanded to the department's jurisdiction.

13 (18) ~~(17)~~—The court shall not impose a fee on a victim,  
14 victim's estate, or prosecuting attorney for enforcing an order of  
15 restitution.

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

1 victim's rights fund equal to the restitution owed to the person or  
2 entity. The court shall use the reduction to reimburse that  
3 restitution to the person or entity.

4 (20) ~~(19)~~—The court may amend an order of restitution entered  
5 under this section on a motion by the prosecuting attorney, the  
6 victim, or the defendant based upon new information related to the  
7 injury, damages, or loss for which the restitution was ordered.

8 (21) ~~(20)~~—A court that receives notice that a defendant who  
9 has an obligation to pay restitution under this section has  
10 declared bankruptcy shall forward a copy of that notice to the  
11 prosecuting attorney. The prosecuting attorney shall forward the  
12 notice to the victim at the victim's last known address.

13 (22) ~~(21)~~—If the victim is a minor, the order of restitution  
14 shall require the defendant pay to a parent of the victim an amount  
15 that is determined to be reasonable for any of the following that  
16 are actually incurred or reasonably expected to be incurred by the  
17 parent as a result of the crime:

18 (a) Homemaking and child care expenses.

19 (b) Income loss not ordered to be paid under subsection  
20 (4) (h).

21 (c) Mileage.

22 (d) Lodging or housing.

23 (e) Meals.

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

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

1 enacted into law:

2 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 6096 (request no.  
3 00306'07 \*).

4 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 6098 (request no.  
5 00306'07 b \*).