

SENATE BILL No. 877

April 12, 2016, Introduced by Senators KNOLLENBERG, O'BRIEN, JONES, SCHUITMAKER and HORN 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 6, 7, 8, 36, 37, 38, 65, 66, 67, and 68 (MCL 780.756, 780.757, 780.758, 780.786, 780.787, 780.788, 780.815, 780.816, 780.817, and 780.818), sections 6 and 65 as amended by 2005 PA 184, sections 8, 38, and 68 as amended by 2012 PA 457, sections 36 and 66 as amended by 2000 PA 503, section 37 as added by 1988 PA 22, and section 67 as added by 1988 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) Not later than 7 days after the defendant's
 2 arraignment for a crime, ~~but~~**AND** not less than 24 hours before **THE**
 3 **DATE SET UNDER SECTION 4 OF CHAPTER VI OF THE CODE OF CRIMINAL**
 4 **PROCEDURE, 1927 PA 175, MCL 766.4, FOR THE EARLIER OF a PROBABLE**
 5 **CAUSE CONFERENCE OR A** preliminary examination, the prosecuting
 6 attorney shall give to each victim a written notice in plain

1 English of each of the following:

2 (a) A brief statement of the procedural steps in the
3 processing of a criminal case.

4 (b) A specific list of the rights and procedures under this
5 article.

6 (c) A convenient means for the victim to notify the
7 prosecuting attorney that the victim chooses to exercise his or her
8 rights under this article.

9 (d) Details and eligibility requirements for compensation from
10 the crime victim services commission under 1976 PA 223, MCL 18.351
11 to 18.368.

12 (e) Suggested procedures if the victim is subjected to threats
13 or intimidation.

14 (f) The person to contact for further information.

15 (2) If the victim requests, the prosecuting attorney shall
16 give the victim notice of any scheduled court proceedings and any
17 changes in that schedule.

18 (3) Before finalizing any negotiation that may result in a
19 dismissal, plea or sentence bargain, or pretrial diversion, the
20 prosecuting attorney shall offer the victim the opportunity to
21 consult with the prosecuting attorney to obtain the victim's views
22 about the disposition of the prosecution for the crime, including
23 the victim's views about dismissal, plea or sentence negotiations,
24 and pretrial diversion programs.

25 (4) A victim who receives a notice under subsection (1) and
26 who chooses to receive any notice or exercise any right under this
27 article shall keep the following persons informed of the victim's

1 current address, **ELECTRONIC MAIL OR TEXTING ADDRESS**, and telephone
2 number:

3 (a) The prosecuting attorney, until final disposition or
4 completion of the appellate process, whichever occurs later.

5 (b) The department of corrections or the sheriff, as the
6 prosecuting attorney directs, if the defendant is imprisoned.

7 (c) The department of **HEALTH AND** human services or county
8 juvenile agency, as the prosecuting attorney directs, if the
9 defendant is held in a juvenile facility.

10 (d) The hospital or facility, as the prosecuting attorney
11 directs, if the defendant is hospitalized in or admitted to a
12 hospital or a facility.

13 Sec. 7. The court shall provide a waiting area for the victim
14 separate from the defendant, defendant's relatives, **DEFENDANT'S**
15 **SUPPORTERS**, and defense witnesses if such an area is available and
16 the use of the area is practical. If a separate waiting area is not
17 available or practical, the court shall provide other safeguards to
18 minimize the victim's contact with defendant, defendant's
19 relatives, **DEFENDANT'S SUPPORTERS**, and defense witnesses during
20 court proceedings.

21 Sec. 8. (1) Based upon the victim's reasonable apprehension of
22 acts or threats of physical violence or intimidation by the
23 defendant or at defendant's direction against the victim or the
24 victim's immediate family, the prosecuting attorney may move that
25 the victim or any other witness not be compelled to testify at
26 pretrial proceedings or at trial for purposes of identifying the
27 victim as to the victim's address, place of employment, or other

1 personal identification without the victim's consent. A hearing on
2 the motion shall be in camera.

3 (2) The **NAME**, work address, and address of ~~the~~**A** victim shall
4 ~~not be in the court file or ordinary court documents~~ **ARE**
5 **CONFIDENTIAL AND SHALL NOT BE OPEN TO PUBLIC INSPECTION** unless
6 contained in a transcript of the trial or ~~it is~~ used to identify
7 the place of the crime. The work telephone number, ~~and~~**HOME**
8 telephone number, **CELLULAR TELEPHONE NUMBER, AND ELECTRONIC MAIL OR**
9 **TEXTING ADDRESS** of ~~the~~**A** victim shall ~~not be in the court file or~~
10 ~~ordinary court documents~~ **ARE CONFIDENTIAL AND SHALL NOT BE OPEN TO**
11 **PUBLIC INSPECTION** except as contained in a transcript of the trial.

12 (3) Under section 24 of article I of the state constitution of
13 1963, guaranteeing to crime victims the right to be treated with
14 respect for their dignity and privacy, all of the following
15 information and visual representations of a victim are exempt from
16 disclosure under the freedom of information act, 1976 PA 442, MCL
17 15.231 to 15.246:

18 (a) The **NAME**, home address, home telephone number, **CELLULAR**
19 **TELEPHONE NUMBER, ELECTRONIC MAIL OR TEXTING ADDRESS**, work address,
20 and work telephone number of the victim. ~~unless the~~ **HOWEVER, AN**
21 address **MAY BE DISCLOSED IF IT** is used to identify the place of the
22 crime.

23 (b) A picture, photograph, drawing, or other visual
24 representation, including any film, videotape, or digitally stored
25 image of the victim.

26 (c) The following information concerning a victim of child
27 abuse, criminal sexual conduct, assault with intent to commit

1 criminal sexual conduct, or a similar crime who was less than 18
2 years of age when the crime was committed:

3 (i) The victim's name and address.

4 (ii) The name and address of an immediate family member or
5 relative of the victim, who has the same surname as the victim,
6 other than the name and address of the accused.

7 (iii) Any other information that would tend to reveal the
8 identity of the victim, including a reference to the victim's
9 familial or other relationship to the accused.

10 (4) Subsection (3) does not preclude the release of
11 information to a victim advocacy organization or agency for the
12 purpose of providing victim services.

13 Sec. 36. (1) The court shall accept a petition submitted by a
14 prosecuting attorney that seeks to invoke the court's jurisdiction
15 for a juvenile offense, unless the court finds on the record that
16 the petitioner's allegations are insufficient to support a claim of
17 jurisdiction under section 2(a)(1) of chapter XIIA of the probate
18 code of 1939, 1939 PA 288, MCL 712A.2.

19 (2) Within 72 hours after the prosecuting attorney files or
20 submits a petition seeking to invoke the court's jurisdiction for
21 an offense, the prosecuting attorney, or the court pursuant to an
22 agreement under section 48a, shall give to each victim a written
23 notice in plain English of each of the following:

24 (a) A brief statement of the procedural steps in processing a
25 juvenile case, including the fact that a juvenile may be tried in
26 the same manner as an adult in a designated case or waived to the
27 court of general criminal jurisdiction.

1 (b) A specific list of the rights and procedures under this
2 article.

3 (c) A convenient means for the victim to notify the
4 prosecuting attorney that the victim chooses to exercise his or her
5 rights under this article.

6 (d) Details and eligibility requirements for compensation from
7 the crime victim services commission under 1976 PA 223, MCL 18.351
8 to 18.368.

9 (e) Suggested procedures if the victim is subjected to threats
10 or intimidation.

11 (f) The person to contact for further information.

12 (3) If the victim requests, the prosecuting attorney, or the
13 court pursuant to an agreement under section 48a, shall give the
14 victim notice of any scheduled court proceedings and any changes in
15 that schedule.

16 (4) If the juvenile has not already entered a plea of
17 admission or no contest to the original charge at the preliminary
18 hearing, the prosecuting attorney shall offer the victim the
19 opportunity to consult with the prosecuting attorney to obtain the
20 victim's views about the disposition of the offense, including the
21 victim's views about dismissal, waiver, and pretrial diversion
22 programs, before finalizing any agreement to reduce the original
23 charge.

24 (5) A victim who receives a notice under subsection (1) and
25 chooses to receive any notice or exercise any right under this
26 article shall keep the following persons informed of the victim's
27 current address, **ELECTRONIC MAIL OR TEXTING ADDRESS**, and telephone

1 number:

2 (a) The prosecuting attorney, or the court if an agreement
3 under section 48a exists.

4 (b) If the juvenile is made a public ward, the ~~family~~
5 ~~independence agency~~ **DEPARTMENT OF HEALTH AND HUMAN SERVICES** or
6 county juvenile agency, as applicable.

7 (c) If the juvenile is imprisoned, the department of
8 corrections or the sheriff as directed by the prosecuting attorney.

9 Sec. 37. The court shall provide a waiting area for the victim
10 separate from the juvenile, the juvenile's relatives, and the
11 juvenile's witnesses if such an area is available and the use of
12 the area is practical. If a separate waiting area is not available
13 or practical, the court shall provide other safeguards to minimize
14 the victim's contact with the juvenile, the juvenile's relatives,
15 **THE JUVENILE'S SUPPORTERS**, and the juvenile's witnesses during
16 court proceedings.

17 Sec. 38. (1) Based upon the victim's reasonable apprehension
18 of acts or threats of physical violence or intimidation by the
19 juvenile or at the juvenile's direction against the victim or the
20 victim's immediate family, the prosecuting attorney may move or, in
21 the absence of a prosecuting attorney, the victim may request that
22 the victim or any other witness not be compelled to testify at any
23 court hearing for purposes of identifying the victim as to the
24 victim's address, place of employment, or other personal
25 identification without the victim's consent. A hearing on the
26 motion shall be in camera.

27 (2) **THE NAME, WORK ADDRESS, AND ADDRESS OF A VICTIM ARE**

1 CONFIDENTIAL AND SHALL NOT BE OPEN TO THE PUBLIC UNLESS THEY ARE
2 CONTAINED IN A TRANSCRIPT OF THE TRIAL OR THEY ARE USED TO IDENTIFY
3 THE PLACE OF THE OFFENSE. THE WORK TELEPHONE NUMBER, THE HOME
4 TELEPHONE NUMBER, THE CELLULAR TELEPHONE NUMBER, AND THE ELECTRONIC
5 MAIL OR TEXTING ADDRESS OF A VICTIM ARE CONFIDENTIAL AND SHALL NOT
6 BE OPEN TO THE PUBLIC EXCEPT AS CONTAINED IN A TRANSCRIPT OF THE
7 TRIAL.

8 (3) ~~(2)~~—Under section 24 of article I of the state
9 constitution of 1963, guaranteeing to crime victims the right to be
10 treated with respect for their dignity and privacy, all of the
11 following information and visual representations of a victim are
12 exempt from disclosure under the freedom of information act, 1976
13 PA 442, MCL 15.231 to 15.246:

14 (a) The **NAME**, home address, home telephone number, **CELLULAR**
15 **TELEPHONE NUMBER**, **ELECTRONIC MAIL OR TEXTING ADDRESS**, work address,
16 and work telephone number of the victim.

17 (b) A picture, photograph, drawing, or other visual
18 representation, including any film, videotape, or digitally stored
19 image of the victim.

20 (c) The following information concerning a victim of child
21 abuse, criminal sexual conduct, assault with intent to commit
22 criminal sexual conduct, or a similar ~~crime~~**OFFENSE** who was less
23 than 18 years of age when the ~~crime~~**OFFENSE** was committed:

24 (i) The victim's name and address.

25 (ii) The name and address of an immediate family member or
26 relative of the victim, who has the same surname as the victim,
27 other than the name and address of the accused.

1 (iii) Any other information that would tend to reveal the
2 identity of the victim, including a reference to the victim's
3 familial or other relationship to the accused.

4 (4) ~~(3)~~ Subsection ~~(2)~~ (3) does not preclude the release of
5 information to a victim advocacy organization or agency for the
6 purpose of providing victim services.

7 Sec. 65. Not later than 72 hours after the arrest of the
8 defendant for a serious misdemeanor, the law enforcement agency
9 having responsibility for investigating the serious misdemeanor
10 shall give to the victim notice of the availability of pretrial
11 release for the defendant, the phone number of the sheriff, and
12 notice that the victim may contact the sheriff to determine whether
13 the defendant has been released from custody. The law enforcement
14 agency having responsibility for investigating the crime shall
15 promptly notify the victim of the arrest or pretrial release of the
16 defendant, or both, if the victim requests or has requested that
17 information. If the defendant is released from custody by the
18 sheriff, the sheriff shall notify the law enforcement agency having
19 responsibility for investigating the crime. **CONTACT INFORMATION**
20 **PROVIDED BY A VICTIM UNDER THIS SECTION IS CONFIDENTIAL AND SHALL**
21 **NOT BE OPEN TO PUBLIC INSPECTION AND IS EXEMPT FROM DISCLOSURE**
22 **UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO**
23 **15.246.**

24 Sec. 66. (1) If a plea of guilty or nolo contendere is
25 accepted by the court at the time of the arraignment of the
26 defendant for a serious misdemeanor, the court shall notify the
27 prosecuting attorney of the plea and the date of sentencing within

1 48 hours after the arraignment. If no guilty or nolo contendere
2 plea is accepted at the arraignment and further proceedings will be
3 scheduled, the court shall so notify the prosecuting attorney
4 within 48 hours after the arraignment. A notice to the prosecuting
5 attorney under this subsection shall be on a separate form and
6 shall include the name, address, and telephone number of ~~the~~**A**
7 victim. The notice shall not be a matter of public record. Within
8 48 hours after receiving this notice, the prosecuting attorney
9 shall give to each victim a written notice in plain English of each
10 of the following:

11 (a) A brief statement of the procedural steps in the
12 processing of a misdemeanor case, including pretrial conferences.

13 (b) A specific list of the rights and procedures under this
14 article.

15 (c) A convenient means for the victim to notify the
16 prosecuting attorney that the victim chooses to exercise his or her
17 rights under this article.

18 (d) Details and eligibility requirements for compensation from
19 the crime victim services commission under 1976 PA 223, MCL 18.351
20 to 18.368.

21 (e) Suggested procedures if the victim is subjected to threats
22 or intimidation.

23 (f) The person to contact for further information.

24 (2) If requested by ~~the~~**A** victim, the prosecuting attorney
25 shall give to the victim notice of any scheduled court proceedings
26 and notice of any changes in that schedule.

27 (3) If the defendant has not already entered a plea of guilty

1 or nolo contendere at the arraignment, the prosecuting attorney
2 shall offer ~~the~~**A** victim the opportunity to consult with the
3 prosecuting attorney to obtain the views of the victim about the
4 disposition of the serious misdemeanor, including the victim's
5 views about dismissal, plea or sentence negotiations, and pretrial
6 diversion programs before finalizing any negotiation that may
7 result in a dismissal, plea or sentence bargain, or pretrial
8 diversion.

9 (4) If the case against the defendant is dismissed at any
10 time, the prosecuting attorney shall notify ~~the~~**A** victim of the
11 dismissal within 48 hours.

12 (5) A victim who receives a notice under subsection (1) or (2)
13 and who chooses to receive any notice or exercise any right under
14 this article shall keep the following persons informed of the
15 victim's current address, **ELECTRONIC MAIL OR TEXTING ADDRESS**, and
16 telephone number:

17 (a) The prosecuting attorney, until final disposition or
18 completion of the appellate process, whichever occurs later.

19 (b) The sheriff, if the defendant is imprisoned for more than
20 92 days.

21 Sec. 67. The court shall provide a waiting area for ~~the~~**A**
22 victim separate from the defendant, defendant's relatives,
23 **DEFENDANT'S SUPPORTERS**, and defense witnesses if such an area is
24 available and the use of the area is practical. If a separate
25 waiting area is not available or practical, the court shall provide
26 other safeguards to minimize the victim's contact with defendant,
27 defendant's relatives, **DEFENDANT'S SUPPORTERS**, and defense

1 witnesses during court proceedings.

2 Sec. 68. (1) Based upon the victim's reasonable apprehension
3 of acts or threats of physical violence or intimidation by the
4 defendant or at defendant's direction against ~~the~~**A** victim or ~~the~~**A**
5 victim's immediate family, the prosecuting attorney may move that
6 the victim or any other witness not be compelled to testify at
7 pretrial proceedings or at trial for purposes of identifying the
8 victim as to the victim's address, place of employment, or other
9 personal identification without the victim's consent. A hearing on
10 the motion shall be in camera.

11 **(2) THE NAME, WORK ADDRESS, AND ADDRESS OF A VICTIM SHALL NOT**
12 **BE IN THE COURT FILE OR ORDINARY COURT DOCUMENTS UNLESS THEY ARE**
13 **CONTAINED IN A TRANSCRIPT OF THE TRIAL OR USED TO IDENTIFY THE**
14 **PLACE OF THE CRIME. THE WORK TELEPHONE NUMBER, THE HOME TELEPHONE**
15 **NUMBER, THE CELLULAR TELEPHONE NUMBER, AND THE ELECTRONIC MAIL OR**
16 **TEXTING ADDRESS OF A VICTIM SHALL NOT BE OPEN TO PUBLIC INSPECTION**
17 **EXCEPT AS CONTAINED IN A TRANSCRIPT OF THE TRIAL.**

18 **(3) ~~(2)~~**—Under section 24 of article I of the state
19 constitution of 1963, guaranteeing to crime victims the right to be
20 treated with respect for their dignity and privacy, all of the
21 following information and visual representations of a victim are
22 exempt from disclosure under the freedom of information act, 1976
23 PA 442, MCL 15.231 to 15.246:

24 (a) The **NAME**, home address, home telephone number, **CELLULAR**
25 **TELEPHONE NUMBER, ELECTRONIC MAIL OR TEXTING ADDRESS**, work address,
26 and work telephone number of ~~the~~**A** victim.

27 (b) A picture, photograph, drawing, or other visual

1 representation, including any film, videotape, or digitally stored
2 image of the victim.

3 (c) The following information concerning a victim of child
4 abuse, criminal sexual conduct, assault with intent to commit
5 criminal sexual conduct, or a similar crime who was less than 18
6 years of age when the crime was committed:

7 (i) The victim's name and address.

8 (ii) The name and address of an immediate family member or
9 relative of the victim, who has the same surname as the victim,
10 other than the name and address of the accused.

11 (iii) Any other information that would tend to reveal the
12 identity of the victim, including a reference to the victim's
13 familial or other relationship to the accused.

14 (4) ~~(3)~~—Subsection ~~(2)~~—(3) does not preclude the release of
15 information to a victim advocacy organization or agency for the
16 purpose of providing victim services.

17 Enacting section 1. This amendatory act takes effect 90 days
18 after the date it is enacted into law.

19 Enacting section 2. This amendatory act does not take effect
20 unless all of the following bills of the 98th Legislature are
21 enacted into law:

22 (a) Senate Bill No. 873.

23

24 (b) Senate Bill No. 874.

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26 (c) Senate Bill No. 875.

27

1 (d) Senate Bill No. 876.

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3 (e) Senate Bill No. _____ or House Bill No. _____ (request no.
4 01052'15).

5 (f) Senate Bill No. _____ or House Bill No. _____ (request no.
6 01053'15).