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BILL ANALYSIS



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House Bill 5798 (Substitute H-1 as passed by the House)
Sponsor: Representative Thomas A. Albert
House Committee: Law and Justice
Senate Committee: Judiciary

Date Completed: 6-4-18

CONTENT

The bill would amend the Crime Victim's Right Act to allow additional individuals to make a victim impact statement if a victim were deceased, were mentally incapacitated, or consented to the designation of another individual.

The rights of a victim under the Act include the right to appear and make an oral impact statement at the defendant's sentencing, or at the disposition or sentencing of a juvenile offender. If the victim is physically or emotionally unable to exercise his or her rights under the Act, he or she may designate another person 18 years of age or older who is neither the defendant nor incarcerated to act in his or her place.

The Act defines "victim", except as otherwise provided, as an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime that is punishable by imprisonment for more than one year or is designated a felony, an offense committed by a juvenile that would be a crime if committed by an adult or that is a particular offense listed in the Act, or a serious misdemeanor, as defined in the Act.

For the purpose of making an impact statement only, the definition of "victim" includes a parent, guardian, or custodian of a victim who is less than 18 years old at the time of the commission of the crime and who is neither the defendant nor incarcerated, if the parent, guardian, or custodian chooses to make a statement. The bill would delete this provision.

Under the bill, for the purpose of making an impact statement only, if the victim were deceased, were so mentally incapacitated that he or she was unable to understand or participate in the legal process, or consented to the designation, "victim" would include the following individuals other than the defendant:

- The spouse of the victim.
- A child of the victim if the child were 18 years of age or older.
- A parent of the victim.
- The guardian or custodian of a child of the victim if the child were less than 18 years old.
- A sibling of the victim.
- A grandparent of the victim.
- A guardian or custodian of the victim if the victim were less than 18 years old at the time of the commission of the crime and that guardian or custodian were not incarcerated.

The bill would take effect 90 days after being enacted.

MCL 780.752 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill is not expected to have a significant impact on State or local courts. By expanding the circumstances under which additional individuals may make victim impact statements, and the categories of people who may make the statements, the bill has the potential to increase criminal sentences and possibly guilty pleas. The increase in sentences and convictions cannot be determined, and could be offset by court-ordered fines and costs.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.