

**SUBSTITUTE FOR
HOUSE BILL NO. 5798**

A bill to amend 1985 PA 87, entitled
"William Van Regenmorter crime victim's rights act,"
by amending sections 2, 31, and 61 (MCL 780.752, 780.781, and
780.811), section 2 as amended by 2014 PA 133, section 31 as
amended by 2014 PA 134, and section 61 as amended by 2014 PA 130.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as otherwise defined in this article, as
2 used in this article:

3 (a) "County juvenile agency" means that term as defined in
4 section 2 of the county juvenile agency act, 1998 PA 518, MCL
5 45.622.

6 (b) "Crime" means a violation of a penal law of this state for
7 which the offender, upon conviction, may be punished by
8 imprisonment for more than 1 year or an offense expressly

1 designated by law as a felony.

2 (c) "Crime victim services commission" means that term as
3 described in section 2 of 1976 PA 223, MCL 18.352.

4 (d) "Defendant" means a person charged with, convicted of, or
5 found not guilty by reason of insanity of committing a crime
6 against a victim.

7 (e) "Facility", as used in sections 6, 13a, 19a, and 20 only,
8 and not with reference to a juvenile facility, means that term as
9 defined in section 100b of the mental health code, 1974 PA 258, MCL
10 330.1100b.

11 (f) "Final disposition" means the ultimate termination of the
12 criminal prosecution of a defendant including, but not limited to,
13 dismissal, acquittal, or imposition of sentence by the court.

14 (g) "Juvenile" means a person within the jurisdiction of the
15 circuit court under section 606 of the revised judicature act of
16 1961, 1961 PA 236, MCL 600.606.

17 (h) "Juvenile facility" means a county facility, institution
18 operated as an agency of the county or the family division of
19 circuit court, or an institution or agency described in the youth
20 rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309,
21 to which a juvenile has been committed or in which a juvenile is
22 detained.

23 (i) "Hospital" means that term as defined in section 100b of
24 the mental health code, 1974 PA 258, MCL 330.1100b.

25 (j) "Person" means an individual, organization, partnership,
26 corporation, or governmental entity.

27 (k) "Prisoner" means a person who has been convicted and

1 sentenced to imprisonment or placement in a juvenile facility for
2 having committed a crime or an act that would be a crime if
3 committed by an adult against a victim.

4 (l) "Prosecuting attorney" means the prosecuting attorney for
5 a county, an assistant prosecuting attorney for a county, the
6 attorney general, the deputy attorney general, an assistant
7 attorney general, or a special prosecuting attorney.

8 (m) "Victim" means any of the following:

9 (i) An individual who suffers direct or threatened physical,
10 financial, or emotional harm as a result of the commission of a
11 crime, except as provided in subparagraph (ii), (iii), ~~or (iv)~~, **OR**
12 **(v)**.

13 (ii) The following individuals other than the defendant if the
14 victim is deceased, **EXCEPT AS PROVIDED IN SUBPARAGRAPH (v)**:

15 (A) The spouse of the deceased victim.

16 (B) A child of the deceased victim if the child is 18 years of
17 age or older and sub-subparagraph (A) does not apply.

18 (C) A parent of a ~~THE~~ deceased victim if sub-subparagraphs (A)
19 and (B) do not apply.

20 (D) The guardian or custodian of a child of a ~~THE~~ deceased
21 victim if the child is less than 18 years of age and sub-
22 subparagraphs (A) to (C) do not apply.

23 (E) A sibling of the deceased victim if sub-subparagraphs (A)
24 to (D) do not apply.

25 (F) A grandparent of the deceased victim if sub-subparagraphs
26 (A) to (E) do not apply.

27 (iii) A parent, guardian, or custodian of a ~~THE~~ victim, ~~who~~ **IF**

1 **THE VICTIM** is less than 18 years of age, ~~and who is neither the~~
2 ~~defendant nor incarcerated, if the parent, guardian, or custodian~~
3 ~~so chooses. For the purpose of making an impact statement only, a~~
4 ~~parent, guardian, or custodian of a victim who is less than 18~~
5 ~~years of age at the time of the commission of the crime and who is~~
6 ~~neither the defendant nor incarcerated, if the parent, guardian, or~~
7 ~~eustodian so chooses.~~

8 (iv) A parent, guardian, or custodian of a victim who is
9 mentally or emotionally unable to participate in the legal process
10 if he or she is neither the defendant nor incarcerated.

11 (v) **FOR THE PURPOSE OF MAKING AN IMPACT STATEMENT ONLY, IF THE**
12 **VICTIM AS DEFINED IN SUBPARAGRAPH (i) IS DECEASED, IS SO MENTALLY**
13 **INCAPACITATED THAT HE OR SHE CANNOT MEANINGFULLY UNDERSTAND OR**
14 **PARTICIPATE IN THE LEGAL PROCESS, OR CONSENTS TO THE DESIGNATION AS**
15 **A VICTIM OF THE FOLLOWING INDIVIDUALS OTHER THAN THE DEFENDANT:**

16 (A) **THE SPOUSE OF THE VICTIM.**

17 (B) **A CHILD OF THE VICTIM IF THE CHILD IS 18 YEARS OF AGE OR**
18 **OLDER.**

19 (C) **A PARENT OF THE VICTIM.**

20 (D) **THE GUARDIAN OR CUSTODIAN OF A CHILD OF THE VICTIM IF THE**
21 **CHILD IS LESS THAN 18 YEARS OF AGE.**

22 (E) **A SIBLING OF THE VICTIM.**

23 (F) **A GRANDPARENT OF THE VICTIM.**

24 (G) **A GUARDIAN OR CUSTODIAN OF THE VICTIM IF THE VICTIM IS**
25 **LESS THAN 18 YEARS OF AGE AT THE TIME OF THE COMMISSION OF THE**
26 **CRIME AND THAT GUARDIAN OR CUSTODIAN IS NOT INCARCERATED.**

27 (2) If a victim as defined in subsection (1) (m) (i) is

1 physically or emotionally unable to exercise the privileges and
2 rights under this article, the victim may designate his or her
3 spouse, child 18 years of age or older, parent, sibling,
4 grandparent, or any other person 18 years of age or older who is
5 neither the defendant nor incarcerated to act in his or her place
6 while the physical or emotional disability continues. The victim
7 shall provide the prosecuting attorney with the name of the person
8 who is to act in his or her place. During the physical or emotional
9 disability, notices to be provided under this article to the victim
10 ~~shall~~**MUST** continue to be sent only to the victim.

11 (3) An individual who is charged with a crime arising out of
12 the same transaction from which the charge against the defendant
13 arose is not eligible to exercise the privileges and rights
14 established for victims under this article.

15 (4) An individual who is incarcerated is not eligible to
16 exercise the privileges and rights established for victims under
17 this article except that he or she may submit a written statement
18 to the court for consideration at sentencing.

19 Sec. 31. (1) Except as otherwise defined in this article, as
20 used in this article:

21 (a) "County juvenile agency" means that term as defined in
22 section 2 of the county juvenile agency act, 1998 PA 518, MCL
23 45.622.

24 (b) "Court" means the family division of circuit court.

25 (c) "Crime victim services commission" means that term as
26 described in section 2 of 1976 PA 223, MCL 18.352.

27 (d) "Designated case" means a case designated as a case in

1 which the juvenile is to be tried in the same manner as an adult
2 under section 2d of chapter XIIIA of the probate code of 1939, 1939
3 PA 288, MCL 712A.2d.

4 (e) "Juvenile" means an individual alleged or found to be
5 within the court's jurisdiction under section 2(a)(1) of chapter
6 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for an
7 offense, including, but not limited to, an individual in a
8 designated case.

9 (f) "Juvenile facility" means a county facility, an
10 institution operated as an agency of the county or the court, or an
11 institution or agency described in the youth rehabilitation
12 services act, 1974 PA 150, MCL 803.301 to 803.309, to which a
13 juvenile has been committed or in which a juvenile is detained.

14 (g) "Offense" means 1 or more of the following:

15 (i) A violation of a penal law of this state for which a
16 juvenile offender, if convicted as an adult, may be punished by
17 imprisonment for more than 1 year or an offense expressly
18 designated by law as a felony.

19 (ii) A violation of section 81 (assault and battery, including
20 domestic violence), 81a (assault; infliction of serious injury,
21 including aggravated domestic violence), 115 (breaking and entering
22 or illegal entry), 136b(7) (child abuse in the fourth degree), 145
23 (contributing to the neglect or delinquency of a minor), 145d
24 (using the internet or a computer to make a prohibited
25 communication), 233 (intentionally aiming a firearm without
26 malice), 234 (discharge of a firearm intentionally aimed at a
27 person), 235 (discharge of an intentionally aimed firearm resulting

1 in injury), 335a (indecent exposure), or 411h (stalking) of the
2 Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.115,
3 750.136b, 750.145, 750.145d, 750.233, 750.234, 750.235, 750.335a,
4 and 750.411h.

5 (iii) A violation of section 601b(2) (injuring a worker in a
6 work zone) or 617a (leaving the scene of a personal injury
7 accident) of the Michigan vehicle code, 1949 PA 300, MCL 257.601b
8 and 257.617a, or a violation of section 625 (operating a vehicle
9 while under the influence of or impaired by intoxicating liquor or
10 a controlled substance, or with unlawful blood alcohol content) of
11 ~~that act,~~ **THE MICHIGAN VEHICLE CODE, 1949 PA 300**, MCL 257.625, if
12 the violation involves an accident resulting in damage to another
13 individual's property or physical injury or death to another
14 individual.

15 (iv) Selling or furnishing alcoholic liquor to an individual
16 less than 21 years of age in violation of section 33 of the former
17 1933 (Ex Sess) PA 8, or section 701 of the Michigan liquor control
18 code of 1998, 1998 PA 58, MCL 436.1701, if the violation results in
19 physical injury or death to any individual.

20 (v) A violation of section 80176(1) or (3) (operating a vessel
21 while under the influence of or impaired by intoxicating liquor or
22 a controlled substance, or with unlawful blood alcohol content) of
23 the natural resources and environmental protection act, 1994 PA
24 451, MCL 324.80176, if the violation involves an accident resulting
25 in damage to another individual's property or physical injury or
26 death to any individual.

27 (vi) A violation of a local ordinance substantially

1 corresponding to a law enumerated in subparagraphs (i) to (v).

2 (vii) A violation described in subparagraphs (i) to (vi) that
3 is subsequently reduced to a violation not included in
4 subparagraphs (i) to (vi).

5 (h) "Person" means an individual, organization, partnership,
6 corporation, or governmental entity.

7 (i) "Prosecuting attorney" means the prosecuting attorney for
8 a county, an assistant prosecuting attorney for a county, the
9 attorney general, the deputy attorney general, an assistant
10 attorney general, a special prosecuting attorney, or, in connection
11 with the prosecution of an ordinance violation, an attorney for the
12 political subdivision that enacted the ordinance upon which the
13 violation is based.

14 (j) "Victim" means any of the following:

15 (i) A person who suffers direct or threatened physical,
16 financial, or emotional harm as a result of the commission of an
17 offense, except as provided in subparagraph (ii), (iii), ~~(iv)~~,
18 **OR (v)**.

19 (ii) The following individuals other than the juvenile if the
20 victim is deceased, **EXCEPT AS PROVIDED IN SUBPARAGRAPH (v)**:

21 (A) The spouse of the deceased victim.

22 (B) A child of the deceased victim if the child is 18 years of
23 age or older and sub-subparagraph (A) does not apply.

24 (C) A parent of a deceased victim if sub-subparagraphs (A) and
25 (B) do not apply.

26 (D) The guardian or custodian of a child of a deceased victim
27 if the child is less than 18 years of age and sub-subparagraphs (A)

1 to (C) do not apply.

2 (E) A sibling of the deceased victim if sub-subparagraphs (A)
3 to (D) do not apply.

4 (F) A grandparent of the deceased victim if sub-subparagraphs
5 (A) to (E) do not apply.

6 (iii) A parent, guardian, or custodian of a victim who is less
7 than 18 years of age and who is neither the ~~defendant~~ **JUVENILE** nor
8 incarcerated, if the parent, guardian, or custodian so chooses. ~~For~~
9 ~~the purpose of making an impact statement only, a parent, guardian,~~
10 ~~or custodian of a victim who is less than 18 years of age at the~~
11 ~~time of the commission of the crime and who is neither the~~
12 ~~defendant nor incarcerated, if the parent, guardian, or custodian~~
13 ~~so chooses.~~

14 (iv) A parent, guardian, or custodian of a victim who is
15 mentally or emotionally unable to participate in the legal process
16 if he or she is neither the ~~defendant~~ **JUVENILE** nor incarcerated.

17 **(v) FOR THE PURPOSE OF MAKING AN IMPACT STATEMENT ONLY, IF THE**
18 **VICTIM AS DEFINED IN SUBPARAGRAPH (i) IS DECEASED, IS SO MENTALLY**
19 **INCAPACITATED THAT HE OR SHE CANNOT MEANINGFULLY UNDERSTAND OR**
20 **PARTICIPATE IN THE LEGAL PROCESS, OR CONSENTS TO THE DESIGNATION AS**
21 **A VICTIM OF THE FOLLOWING INDIVIDUALS OTHER THAN THE JUVENILE:**

22 **(A) THE SPOUSE OF THE VICTIM.**

23 **(B) A CHILD OF THE VICTIM IF THE CHILD IS 18 YEARS OF AGE OR**
24 **OLDER.**

25 **(C) A PARENT OF THE VICTIM.**

26 **(D) THE GUARDIAN OR CUSTODIAN OF A CHILD OF THE VICTIM IF THE**
27 **CHILD IS LESS THAN 18 YEARS OF AGE.**

1 (E) A SIBLING OF THE VICTIM.

2 (F) A GRANDPARENT OF THE VICTIM.

3 (G) A GUARDIAN OR CUSTODIAN OF THE VICTIM IF THE VICTIM IS
4 LESS THAN 18 YEARS OF AGE AT THE TIME OF THE COMMISSION OF THE
5 CRIME AND THAT GUARDIAN OR CUSTODIAN IS NOT INCARCERATED.

6 (2) If a victim as defined in subsection (1) (j) (i) is
7 physically or emotionally unable to exercise the privileges and
8 rights under this article, the victim may designate his or her
9 spouse, child 18 years of age or older, parent, sibling,
10 grandparent, or any other person 18 years of age or older who is
11 neither the defendant nor incarcerated to act in his or her place
12 while the physical or emotional disability continues. The victim
13 shall provide the prosecuting attorney with the name of the person
14 who is to act in his or her place. During the physical or emotional
15 disability, notices to be provided under this article to the victim
16 ~~shall~~**MUST** continue to be sent only to the victim.

17 (3) An individual who is charged with an offense arising out
18 of the same transaction from which the charge against the defendant
19 arose is not eligible to exercise the privileges and rights
20 established for victims under this article.

21 Sec. 61. (1) Except as otherwise defined in this article, as
22 used in this article:

23 (a) "Serious misdemeanor" means 1 or more of the following:

24 (i) A violation of section 81 of the Michigan penal code, 1931
25 PA 328, MCL 750.81, assault and battery, including domestic
26 violence.

27 (ii) A violation of section 81a of the Michigan penal code,

1 1931 PA 328, MCL 750.81a, assault; infliction of serious injury,
2 including aggravated domestic violence.

3 (iii) A violation of section 115 of the Michigan penal code,
4 1931 PA 328, MCL 750.115, breaking and entering or illegal entry.

5 (iv) A violation of section 136b(7) of the Michigan penal
6 code, 1931 PA 328, MCL 750.136b, child abuse in the fourth degree.

7 (v) A violation of section 145 of the Michigan penal code,
8 1931 PA 328, MCL 750.145, contributing to the neglect or
9 delinquency of a minor.

10 (vi) A misdemeanor violation of section 145d of the Michigan
11 penal code, 1931 PA 328, MCL 750.145d, using the internet or a
12 computer to make a prohibited communication.

13 (vii) A violation of section 233 of the Michigan penal code,
14 1931 PA 328, MCL 750.233, intentionally aiming a firearm without
15 malice.

16 (viii) A violation of section 234 of the Michigan penal code,
17 1931 PA 328, MCL 750.234, discharge of a firearm intentionally
18 aimed at a person.

19 (ix) A violation of section 235 of the Michigan penal code,
20 1931 PA 328, MCL 750.235, discharge of an intentionally aimed
21 firearm resulting in injury.

22 (x) A violation of section 335a of the Michigan penal code,
23 1931 PA 328, MCL 750.335a, indecent exposure.

24 (xi) A violation of section 411h of the Michigan penal code,
25 1931 PA 328, MCL 750.411h, stalking.

26 (xii) A violation of section 601b(2) of the Michigan vehicle
27 code, 1949 PA 300, MCL 257.601b, injuring a worker in a work zone.

1 (xiii) A violation of section 617a of the Michigan vehicle
2 code, 1949 PA 300, MCL 257.617a, leaving the scene of a personal
3 injury accident.

4 (xiv) A violation of section 625 of the Michigan vehicle code,
5 1949 PA 300, MCL 257.625, operating a vehicle while under the
6 influence of or impaired by intoxicating liquor or a controlled
7 substance, or with an unlawful blood alcohol content, if the
8 violation involves an accident resulting in damage to another
9 individual's property or physical injury or death to another
10 individual.

11 (xv) Selling or furnishing alcoholic liquor to an individual
12 less than 21 years of age in violation of section 701 of the
13 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701, if
14 the violation results in physical injury or death to any
15 individual.

16 (xvi) A violation of section 80176(1) or (3) of the natural
17 resources and environmental protection act, 1994 PA 451, MCL
18 324.80176, operating a vessel while under the influence of or
19 impaired by intoxicating liquor or a controlled substance, or with
20 an unlawful blood alcohol content, if the violation involves an
21 accident resulting in damage to another individual's property or
22 physical injury or death to any individual.

23 (xvii) A violation of a local ordinance substantially
24 corresponding to a violation enumerated in subparagraphs (i) to
25 (xvi) .

26 (xviii) A violation charged as a crime or serious misdemeanor
27 enumerated in subparagraphs (i) to (xvii) but subsequently reduced

1 to or pleaded to as a misdemeanor. As used in this subparagraph,
2 "crime" means that term as defined in section 2.

3 (b) "Crime victim services commission" means that term as
4 described in section 2 of 1976 PA 223, MCL 18.352.

5 (c) "Defendant" means a person charged with or convicted of
6 having committed a serious misdemeanor against a victim.

7 (d) "Final disposition" means the ultimate termination of the
8 criminal prosecution of a defendant including, but not limited to,
9 dismissal, acquittal, or imposition of a sentence by the court.

10 (e) "Person" means an individual, organization, partnership,
11 corporation, or governmental entity.

12 (f) "Prisoner" means a person who has been convicted and
13 sentenced to imprisonment for having committed a serious
14 misdemeanor against a victim.

15 (g) "Prosecuting attorney" means the prosecuting attorney for
16 a county, an assistant prosecuting attorney for a county, the
17 attorney general, the deputy attorney general, an assistant
18 attorney general, a special prosecuting attorney, or, in connection
19 with the prosecution of an ordinance violation, an attorney for the
20 political subdivision that enacted the ordinance upon which the
21 violation is based.

22 (h) "Victim" means any of the following:

23 (i) An individual who suffers direct or threatened physical,
24 financial, or emotional harm as a result of the commission of a
25 serious misdemeanor, except as provided in subparagraph (ii),
26 (iii), ~~or~~ (iv), **OR (v)**.

27 (ii) The following individuals other than the defendant if the

1 victim is deceased, **EXCEPT AS PROVIDED IN SUBPARAGRAPH (v)** :

2 (A) The spouse of the deceased victim.

3 (B) A child of the deceased victim if the child is 18 years of
4 age or older and sub-subparagraph (A) does not apply.

5 (C) A parent of a deceased victim if sub-subparagraphs (A) and
6 (B) do not apply.

7 (D) The guardian or custodian of a child of a deceased victim
8 if the child is less than 18 years of age and sub-subparagraphs (A)
9 to (C) do not apply.

10 (E) A sibling of the deceased victim if sub-subparagraphs (A)
11 to (D) do not apply.

12 (F) A grandparent of the deceased victim if sub-subparagraphs
13 (A) to (E) do not apply.

14 (iii) A parent, guardian, or custodian of a victim who is less
15 than 18 years of age and who is neither the defendant nor
16 incarcerated, if the parent, guardian, or custodian so chooses. ~~For~~
17 ~~the purpose of making an impact statement only, a parent, guardian,~~
18 ~~or custodian of a victim who is less than 18 years of age at the~~
19 ~~time of the commission of the crime and who is neither the~~
20 ~~defendant nor incarcerated, if the parent, guardian, or custodian~~
21 ~~so chooses.~~

22 (iv) A parent, guardian, or custodian of a victim who is so
23 mentally incapacitated that he or she cannot meaningfully
24 understand or participate in the legal process if he or she is not
25 the defendant and is not incarcerated.

26 **(v) FOR THE PURPOSE OF MAKING AN IMPACT STATEMENT ONLY, IF THE**
27 **VICTIM AS DEFINED IN SUBPARAGRAPH (i) IS DECEASED, IS SO MENTALLY**

1 INCAPACITATED THAT HE OR SHE CANNOT MEANINGFULLY UNDERSTAND OR
2 PARTICIPATE IN THE LEGAL PROCESS, OR CONSENTS TO THE DESIGNATION AS
3 A VICTIM OF THE FOLLOWING INDIVIDUALS OTHER THAN THE DEFENDANT:

4 (A) THE SPOUSE OF THE VICTIM.

5 (B) A CHILD OF THE VICTIM IF THE CHILD IS 18 YEARS OF AGE OR
6 OLDER.

7 (C) A PARENT OF THE VICTIM.

8 (D) THE GUARDIAN OR CUSTODIAN OF A CHILD OF THE VICTIM IF THE
9 CHILD IS LESS THAN 18 YEARS OF AGE.

10 (E) A SIBLING OF THE VICTIM.

11 (F) A GRANDPARENT OF THE VICTIM.

12 (G) A GUARDIAN OR CUSTODIAN OF THE VICTIM IF THE VICTIM IS
13 LESS THAN 18 YEARS OF AGE AT THE TIME OF THE COMMISSION OF THE
14 CRIME AND THAT GUARDIAN OR CUSTODIAN IS NOT INCARCERATED.

15 (2) If a victim as defined in subsection (1) (h) (i) is
16 physically or emotionally unable to exercise the privileges and
17 rights under this article, the victim may designate his or her
18 spouse, child 18 years of age or older, parent, sibling, or
19 grandparent or any other person 18 years of age or older who is
20 neither the defendant nor incarcerated to act in his or her place
21 while the physical or emotional disability continues. The victim
22 shall provide the prosecuting attorney with the name of the person
23 who is to act in place of the victim. During the physical or
24 emotional disability, notices to be provided under this article to
25 the victim ~~shall~~**MUST** continue to be sent only to the victim.

26 (3) An individual who is charged with a serious misdemeanor, a
27 crime as defined in section 2, or an offense as defined in section

1 31 arising out of the same transaction from which the charge
2 against the defendant arose is not eligible to exercise the
3 privileges and rights established for victims under this article.

4 (4) An individual who is incarcerated is not eligible to
5 exercise the privileges and rights established for victims under
6 this article except that he or she may submit a written statement
7 to the court for consideration at sentencing.

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