

# HOUSE BILL No. 5798

April 12, 2018, Introduced by Reps. Albert, LaSata and Pagan and referred to the Committee on Law and Justice.

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  
9 designated by law as a felony.

10           (c) "Crime victim services commission" means that term as

1 described in section 2 of 1976 PA 223, MCL 18.352.

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

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

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

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

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

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

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

25 (k) "Prisoner" means a person who has been convicted and  
26 sentenced to imprisonment or placement in a juvenile facility for  
27 having committed a crime or an act that would be a crime if

1 committed by an adult against a victim.

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

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

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

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

13 (A) The spouse of the deceased victim.

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

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

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

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

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

25 (iii) A parent, guardian, or custodian of a ~~THE~~ victim, ~~who~~ **IF**  
26 **THE VICTIM** is less than 18 years of age, ~~and~~ who is neither the  
27 defendant nor incarcerated, if the parent, guardian, or custodian

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

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

9 (v) **FOR THE PURPOSE OF MAKING AN IMPACT STATEMENT ONLY, THE**  
10 **FOLLOWING INDIVIDUALS OTHER THAN THE DEFENDANT:**

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

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

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

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

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

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

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

22 (2) If a victim as defined in subsection (1) (m) (i) is  
23 physically or emotionally unable to exercise the privileges and  
24 rights under this article, the victim may designate his or her  
25 spouse, child 18 years of age or older, parent, sibling,  
26 grandparent, or any other person 18 years of age or older who is  
27 neither the defendant nor incarcerated to act in his or her place

1 while the physical or emotional disability continues. The victim  
2 shall provide the prosecuting attorney with the name of the person  
3 who is to act in his or her place. During the physical or emotional  
4 disability, notices to be provided under this article to the victim  
5 ~~shall~~**MUST** continue to be sent only to the victim.

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

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

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

16 (a) "County juvenile agency" means that term as defined in  
17 section 2 of the county juvenile agency act, 1998 PA 518, MCL  
18 45.622.

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

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

22 (d) "Designated case" means a case designated as a case in  
23 which the juvenile is to be tried in the same manner as an adult  
24 under section 2d of chapter XIIA of the probate code of 1939, 1939  
25 PA 288, MCL 712A.2d.

26 (e) "Juvenile" means an individual alleged or found to be  
27 within the court's jurisdiction under section 2(a)(1) of chapter

1 XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for an  
2 offense, including, but not limited to, an individual in a  
3 designated case.

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

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

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

14 (ii) A violation of section 81 (assault and battery, including  
15 domestic violence), 81a (assault; infliction of serious injury,  
16 including aggravated domestic violence), 115 (breaking and entering  
17 or illegal entry), 136b(7) (child abuse in the fourth degree), 145  
18 (contributing to the neglect or delinquency of a minor), 145d  
19 (using the internet or a computer to make a prohibited  
20 communication), 233 (intentionally aiming a firearm without  
21 malice), 234 (discharge of a firearm intentionally aimed at a  
22 person), 235 (discharge of an intentionally aimed firearm resulting  
23 in injury), 335a (indecent exposure), or 411h (stalking) of the  
24 Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.115,  
25 750.136b, 750.145, 750.145d, 750.233, 750.234, 750.235, 750.335a,  
26 and 750.411h.

27 (iii) A violation of section 601b(2) (injuring a worker in a

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

10 (iv) Selling or furnishing alcoholic liquor to an individual  
11 less than 21 years of age in violation of section 33 of the former  
12 1933 (Ex Sess) PA 8, or section 701 of the Michigan liquor control  
13 code of 1998, 1998 PA 58, MCL 436.1701, if the violation results in  
14 physical injury or death to any individual.

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

22 (vi) A violation of a local ordinance substantially  
23 corresponding to a law enumerated in subparagraphs (i) to (v).

24 (vii) A violation described in subparagraphs (i) to (vi) that  
25 is subsequently reduced to a violation not included in  
26 subparagraphs (i) to (vi).

27 (h) "Person" means an individual, organization, partnership,

1 corporation, or governmental entity.

2 (i) "Prosecuting attorney" means the prosecuting attorney for  
3 a county, an assistant prosecuting attorney for a county, the  
4 attorney general, the deputy attorney general, an assistant  
5 attorney general, a special prosecuting attorney, or, in connection  
6 with the prosecution of an ordinance violation, an attorney for the  
7 political subdivision that enacted the ordinance upon which the  
8 violation is based.

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

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

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

16 (A) The spouse of the deceased victim.

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

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

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

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

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



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

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

12           (v) **FOR THE PURPOSE OF MAKING AN IMPACT STATEMENT ONLY, THE**  
13 **FOLLOWING INDIVIDUALS OTHER THAN THE JUVENILE:**

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

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

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

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

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

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

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

25           (2) If a victim as defined in subsection (1) (j) (i) is  
26 physically or emotionally unable to exercise the privileges and  
27 rights under this article, the victim may designate his or her

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

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

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

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

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

19 (ii) A violation of section 81a of the Michigan penal code,  
20 1931 PA 328, MCL 750.81a, assault; infliction of serious injury,  
21 including aggravated domestic violence.

22 (iii) A violation of section 115 of the Michigan penal code,  
23 1931 PA 328, MCL 750.115, breaking and entering or illegal entry.

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

26 (v) A violation of section 145 of the Michigan penal code,  
27 1931 PA 328, MCL 750.145, contributing to the neglect or

1 delinquency of a minor.

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

5 (vii) A violation of section 233 of the Michigan penal code,  
6 1931 PA 328, MCL 750.233, intentionally aiming a firearm without  
7 malice.

8 (viii) A violation of section 234 of the Michigan penal code,  
9 1931 PA 328, MCL 750.234, discharge of a firearm intentionally  
10 aimed at a person.

11 (ix) A violation of section 235 of the Michigan penal code,  
12 1931 PA 328, MCL 750.235, discharge of an intentionally aimed  
13 firearm resulting in injury.

14 (x) A violation of section 335a of the Michigan penal code,  
15 1931 PA 328, MCL 750.335a, indecent exposure.

16 (xi) A violation of section 411h of the Michigan penal code,  
17 1931 PA 328, MCL 750.411h, stalking.

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

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

23 (xiv) A violation of section 625 of the Michigan vehicle code,  
24 1949 PA 300, MCL 257.625, operating a vehicle while under the  
25 influence of or impaired by intoxicating liquor or a controlled  
26 substance, or with an unlawful blood alcohol content, if the  
27 violation involves an accident resulting in damage to another

1 individual's property or physical injury or death to another  
2 individual.

3 (xv) Selling or furnishing alcoholic liquor to an individual  
4 less than 21 years of age in violation of section 701 of the  
5 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701, if  
6 the violation results in physical injury or death to any  
7 individual.

8 (xvi) A violation of section 80176(1) or (3) of the natural  
9 resources and environmental protection act, 1994 PA 451, MCL  
10 324.80176, operating a vessel while under the influence of or  
11 impaired by intoxicating liquor or a controlled substance, or with  
12 an unlawful blood alcohol content, if the violation involves an  
13 accident resulting in damage to another individual's property or  
14 physical injury or death to any individual.

15 (xvii) A violation of a local ordinance substantially  
16 corresponding to a violation enumerated in subparagraphs (i) to  
17 (xvi) .

18 (xviii) A violation charged as a crime or serious misdemeanor  
19 enumerated in subparagraphs (i) to (xvii) but subsequently reduced  
20 to or pleaded to as a misdemeanor. As used in this subparagraph,  
21 "crime" means that term as defined in section 2.

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

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

26 (d) "Final disposition" means the ultimate termination of the  
27 criminal prosecution of a defendant including, but not limited to,

1 dismissal, acquittal, or imposition of a sentence by the court.

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

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

7 (g) "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 (h) "Victim" means any of the following:

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

19 (ii) The following individuals other than the defendant 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 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 so  
15 mentally incapacitated that he or she cannot meaningfully  
16 understand or participate in the legal process if he or she is not  
17 the defendant and is not incarcerated.

18 (v) **FOR THE PURPOSE OF MAKING AN IMPACT STATEMENT ONLY, THE**  
19 **FOLLOWING INDIVIDUALS OTHER THAN THE DEFENDANT:**

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

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

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

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

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

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

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

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

15           (3) An individual who is charged with a serious misdemeanor, a  
16 crime as defined in section 2, or an offense as defined in section  
17 31 arising out of the same transaction from which the charge  
18 against the defendant arose is not eligible to exercise the  
19 privileges and rights established for victims under this article.

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

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