

Act No. 370  
Public Acts of 2018  
Approved by the Governor  
December 17, 2018  
Filed with the Secretary of State  
December 17, 2018  
EFFECTIVE DATE: March 17, 2019

**STATE OF MICHIGAN**  
**99TH LEGISLATURE**  
**REGULAR SESSION OF 2018**

Introduced by Reps. Albert, LaSata and Pagan

# **ENROLLED HOUSE BILL No. 5798**

AN ACT to amend 1985 PA 87, entitled “An act to establish the rights of victims of crime and juvenile offenses; to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers’ agents toward victims; and to provide for penalties and remedies,” 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:*

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

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

(b) “Crime” means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year or an offense expressly designated by law as a felony.

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

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

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

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

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

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

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

(j) “Person” means an individual, organization, partnership, corporation, or governmental entity.

(k) "Prisoner" means a person who has been convicted and sentenced to imprisonment or placement in a juvenile facility for having committed a crime or an act that would be a crime if committed by an adult against a victim.

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

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

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

(ii) The following individuals other than the defendant if the victim is deceased, except as provided in subparagraph (v):

(A) The spouse of the deceased victim.

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

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

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

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

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

(iii) A parent, guardian, or custodian of the victim, if the victim is less than 18 years of age, who is neither the defendant nor incarcerated, if the parent, guardian, or custodian so chooses.

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

(v) For the purpose of submitting or making an impact statement only, if the victim as defined in subparagraph (i) is deceased, is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process, or consents to the designation as a victim of the following individuals other than the defendant:

(A) The spouse of the victim.

(B) A child of the victim if the child is 18 years of age or older.

(C) A parent of the victim.

(D) The guardian or custodian of a child of the victim if the child is less than 18 years of age.

(E) A sibling of the victim.

(F) A grandparent of the victim.

(G) A guardian or custodian of the victim if the victim is less than 18 years of age at the time of the commission of the crime and that guardian or custodian is not incarcerated.

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

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

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

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

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

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

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

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

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

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

(g) “Offense” means 1 or more of the following:

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

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

(iii) A violation of section 601b(2) (injuring a worker in a work zone) or 617a (leaving the scene of a personal injury accident) of the Michigan vehicle code, 1949 PA 300, MCL 257.601b and 257.617a, or a violation of section 625 (operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with unlawful blood alcohol content) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, if the violation involves an accident resulting in damage to another individual’s property or physical injury or death to another individual.

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

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

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

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

(h) “Person” means an individual, organization, partnership, corporation, or governmental entity.

(i) “Prosecuting attorney” means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(j) “Victim” means any of the following:

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

(ii) The following individuals other than the juvenile if the victim is deceased, except as provided in subparagraph (v):

(A) The spouse of the deceased victim.

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

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

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

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

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

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age and who is neither the juvenile nor incarcerated, if the parent, guardian, or custodian so chooses.

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

(v) For the purpose of submitting or making an impact statement only, if the victim as defined in subparagraph (i) is deceased, is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process, or consents to the designation as a victim of the following individuals other than the juvenile:

(A) The spouse of the victim.

(B) A child of the victim if the child is 18 years of age or older.

(C) A parent of the victim.

(D) The guardian or custodian of a child of the victim if the child is less than 18 years of age.

(E) A sibling of the victim.

(F) A grandparent of the victim.

(G) A guardian or custodian of the victim if the victim is less than 18 years of age at the time of the commission of the crime and that guardian or custodian is not incarcerated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) “Defendant” means a person charged with or convicted of having committed a serious misdemeanor against a victim.

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

(e) “Person” means an individual, organization, partnership, corporation, or governmental entity.

(f) “Prisoner” means a person who has been convicted and sentenced to imprisonment for having committed a serious misdemeanor against a victim.

(g) “Prosecuting attorney” means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(h) “Victim” means any of the following:

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

(*ii*) The following individuals other than the defendant if the victim is deceased, except as provided in subparagraph (*v*):

(A) The spouse of the deceased victim.

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

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

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

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

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

(*iii*) A parent, guardian, or custodian of a victim who is less than 18 years of age and who is neither the defendant nor incarcerated, if the parent, guardian, or custodian so chooses.

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

(*v*) For the purpose of submitting or making an impact statement only, if the victim as defined in subparagraph (*i*) is deceased, is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process, or consents to the designation as a victim of the following individuals other than the defendant:

(A) The spouse of the victim.

(B) A child of the victim if the child is 18 years of age or older.

(C) A parent of the victim.

(D) The guardian or custodian of a child of the victim if the child is less than 18 years of age.

(E) A sibling of the victim.

(F) A grandparent of the victim.

(G) A guardian or custodian of the victim if the victim is less than 18 years of age at the time of the commission of the crime and that guardian or custodian is not incarcerated.

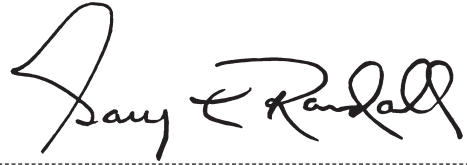
(2) If a victim as defined in subsection (1)(h)(*i*) is physically or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse, child 18 years of age or older, parent, sibling, or grandparent or any other person 18 years of age or older who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

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

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

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor