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# Crime Victims' Rights— A Legislative Perspective

William Van Regenmorter\*

## I. CRIME VICTIM'S RIGHTS ACT, ARTICLE I: VICTIMS OF FELONIES

Crime Victim's Rights legislation in Michigan evolved from the concerns of two victims during the spring of 1982. They described a system which provided absolutely no information, and was characterized by intolerance when any response was supplied at all. Further investigation revealed that the most common complaint received from victims throughout the state was that the criminal justice system ignored them. The plight of victims was poignantly illustrated in a comment by a rape victim when she said, the criminal justice system is "all about me, but without me!"

During 1983 and 1984, a review of victims legislation disclosed that many states had compensation laws and some states provided a few specific legal rights. Only Colorado and Wisconsin had developed laws which resembled a bill of rights for crime victims. Colorado's victims' rights were genuine, but quite limited. While Wisconsin's list was more comprehensive, the "rights" were not legally mandated.<sup>1</sup>

In Michigan, two fundamental methods toward creating victims' rights were considered: change existing laws through a host of amendments, or create a single comprehensive act. The first would ensure the adoption of less controversial rights, but might preclude others. In fact, several states which later attempted to follow this ap-

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\* William Van Regenmorter was first elected to the Michigan House of Representatives in November 1983. In 1984 he authored and introduced Michigan's Crime Victim's Rights Act. In 1988, he authored an amendment adding crime victim's rights to the Michigan Constitution. The public voted overwhelmingly for the adoption of that Amendment in November 1988.

1. My staff and I conducted this review by calling and surveying the appropriate offices of other state governments. This can be an effective method for studying the feasibility of proposed legislation. Lawmakers in most other states have, in their turn, consulted us regarding crime victim's rights legislation.

proach seemed to meet with only limited success.<sup>2</sup>

Instead of changing existing laws, we chose to produce a comprehensive new act by placing the long list of specific rights in a logical sequence. The opportunity for focused opposition is heightened by a comprehensive approach, but support is also unified and cohesive.

Fortunately, a number of criminal justice professionals in Michigan were interested in the project and were ready to provide assistance. Information and guidance were provided by all players in the criminal justice arena, but the involvement of victims helped set the standard.

Several judges, prosecutors, and members of the defense bar provided generous amounts of time and expertise in the development of a draft bill. The Michigan State Bar formed a Victim's Assistance Committee, which was chaired by The Honorable Michael Harrison. That Committee's report, along with the National Organization for Victim Assistance and recommendations from the President's Task Force on Victims' Rights, played a significant part in developing the legislation.

In June of 1984, a bill was formally introduced,<sup>3</sup> but flaws quickly became apparent. For example, one provision which permitted peremptory challenges of prospective jurors by the victim was quickly rejected by both defense attorneys and prosecutors as impractical and inconsistent with the statutory and professional obligations of prosecutors. Rather than consign flawed legislation to a permanent pigeon hole, it was withdrawn. A five month "back to the drawing board" intensive review and rewrite process followed. In January of 1985, it was reintroduced in a refined version as House Bill 4009.

While the language in House Bill 4009 was consistent with the concerns expressed by victims, several components were developed only after extensive brainstorming or through practical experience. For example, the definition of victim evolved from simple to complex. In an attempt to maintain brevity and simplicity, an early definition described a victim as "someone who has suffered harm or loss as a result of a crime." That definition, while attractively simple, did not address victims who were unable to participate in the system because they were too young or incapacitated. Nor did this original definition incorporate victims of attempted crimes or relatives of a deceased victim. Also, in those cases in which there was a deceased victim, the statute had to identify who was to be considered the "victim." After reviewing proposed definitional language with a victim's group called Survivors of Homicide, it became apparent that the tentative defini-

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2. States having relatively poor success include Arizona, Connecticut, Florida, and Texas.

3. H.R. 5593, 80th Leg., Reg. Sess. (1984) (introduced May 31, 1984).

tion would have extended victim's rights to a defendant who had murdered a spouse or other relative.

The definition finally adopted was a far cry from the original simple phrase. Under statutory construction law in Michigan, "person" can mean an individual, but "person" can also mean a partnership, corporation, organization, or government entity. It became clear that for most of the rights contemplated, the term "victim" should include only people and not organizations. With the exception of restitution, the rights proposed apply to individuals only. A victim is defined as:

An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime, except: . . . .

1) [t]he following relations of a deceased victim if the relation is not the defendant:

(A) The spouse.

(B) An adult child [15 years of age or older] if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

. . . .

A parent, guardian, or custodian of a victim who is a minor legally incapacitated person.<sup>4</sup>

Crime is defined as a felony or any other violation of the penal code for which the penalty is imprisonment for more than one year.<sup>5</sup>

If a victim is physically unable to exercise his or her rights, the victim may designate a spouse, a child fifteen years of age or older, a parent, or another relative, to act in the victim's place for the duration of the disability.<sup>6</sup>

It became evident that, if possible, the victim's name, address, and other locating information should be kept confidential. It was also essential that, insofar as it was practical, a single element in the criminal justice system should be responsible for safeguarding the victim's name and address and for providing information about the case to the victim. The prosecuting attorney's office is involved throughout the formal system. Therefore, that office appeared to be the most appropriate agency to retain the victim's identification and to provide the victim with information. In practice, that has proved most effective. An added advantage is that the prosecuting attorney's office is not

4. MICH. COMP. LAWS § 780.752 (1989). For the entire Crime Victim's Rights Act, see 1985 Mich. Pub. Acts 87 (as amended). The full text of the Crime Victim's Rights Act appears in Appendix A to this article.

5. MICH. COMP. LAWS § 780.752(1)(a) (1989).

6. *Id.* § 780.752(1)(e)(2).

subject to the Freedom of Information Act.<sup>7</sup>

Although Michigan's Crime Victim Compensation Fund had been utilized quite effectively, its existence often became known to victims after the deadline for filing an application had passed. That fact, along with the need to provide victims early notice of their rights, generated a *Miranda*-like notice of statutory rights for victims.<sup>8</sup> The law requires that within twenty-four hours of the reporting of a crime, the investigating law enforcement agency must provide the victim with some basic information, including compensation fund details and the phone number of the "victim-witness unit" in the prosecutor's office. Typically, police officers carry cards containing this information and provide them to the victim.

While the bill was under review by the House Judiciary Committee, a staff member of that Committee completed a study of arrest rates in Michigan and convinced the Chair of the Committee to offer an amendment which outraged the law enforcement community. The amendment would have added a requirement to the victim's "*Miranda*" notice. This proposed notice stated that if the crime had not resulted in an arrest after six months had lapsed, the law enforcement agency investigating the crime would be required to notify the victim and apologize. A compromise was reached which required the police to inform the victim that if the victim was not notified of an arrest after six months, the victim could call the law enforcement agency and inquire as to the status of the case.<sup>9</sup>

After only a few technical amendments in the House Judiciary Committee, the Act was passed unanimously by both the House and the Senate without further amendment. On July 10, 1985, the Act was signed into law by the Governor.

Providing the victim with notice of the defendant's release on bail proved difficult. Those within the criminal justice system understand that most defendants are released on bail. However, most victims are not aware of this procedure. While bail bond releases are often routine, a few defendants pose either perceived or actual danger to victims. Therefore, victims of these particular defendants should be made aware of the pretrial release process and bail availability. The following language resulted:

- (1) Not later than 24 hours after the arraignment of the defendant for a crime, the law enforcement agency having responsibility for investigating the crime shall give to the victim notice of the availability of pretrial release for the defendant, the phone number of the sheriff and notice that

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7. *Id.* §§ 15.231-.246.

8. *Id.* § 780.753.

9. *Id.*; see also Amendment No. 1 to HR 4009(H-1), 81st Leg., Reg. Sess. (1985) (Draft 4) (850410a). The amendment was proposed in the House Judiciary Committee, but it did not attach.

the victim may contact the sheriff to determine whether the defendant has been released from custody.

- (2) Based upon the victim's affidavit asserting acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.<sup>10</sup>

Providing victims with notice of availability of pretrial release for the defendant has been incorporated as part of the training for sheriff's deputies throughout Michigan. Deputies are instructed to provide sufficient information to the victim so that if the detention or bail release is not routine, the victim can exercise appropriate caution.

While the principal obligations under the law belong to the prosecuting attorney, some duties are required of the law enforcement agency investigating the crime. The "*Miranda*" notice,<sup>11</sup> prompt return of the victim's property,<sup>12</sup> and the use of photographs to memorialize evidence are required of all law enforcement agencies.<sup>13</sup> Sheriffs who manage jails also must notify the victim under post-sentencing rights, when the defendant is sentenced to jail rather than prison.<sup>14</sup>

The victim's first detailed notice that the victim is entitled to significant rights under Michigan law occurs not later than seven days after the arraignment of the defendant, but not less than twenty-four hours before a preliminary examination.<sup>15</sup> The prosecutor is required to give the victim written notice in plain English of each of the following: (1) a brief statement of the procedural steps in the processing of a criminal case; (2) the victim's rights under the Crime Victim's Rights Act; (3) details and eligibility requirements under the law providing compensation to injured victims; (4) suggested procedures if the victim is subjected to threats or intimidation; and (5) the name of the person to contact for further information.<sup>16</sup> A preliminary examination in Michigan is an adversarial process to determine whether a crime was committed and whether probable cause exists to believe the defendant committed that crime. Upon request of the victim, the prosecuting attorney must also give the victim notice of any

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10. MICH. COMP. LAWS § 780.755 (1989).

11. *Id.* § 780.753.

12. *Id.* § 780.754(1).

13. *Id.* § 780.754(4).

14. *Id.* § 780.756(4)(b).

15. *Id.* § 780.756(1).

16. *Id.*

scheduled court proceedings and notice of any subsequent schedule changes.<sup>17</sup>

The victim has an obligation to keep the prosecuting attorney informed of the victim's current address and phone number until final disposition of the case, or until completion of the appellate process, whichever occurs later.<sup>18</sup> If the defendant is imprisoned, the victim also must keep the Department of Corrections or the sheriff informed of his address, as directed by the prosecuting attorney.<sup>19</sup>

The victim may choose to exercise any, all, or none of the rights afforded by the Act. With one exception, any rights chosen by the victim become a legal requirement. The single component that is not entirely mandatory is:

The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.<sup>20</sup>

The words "available" and "practical" clearly make part of this provision discretionary, although the "other safeguards" are requisites. Michigan has a constitutional requirement that new duties or obligations imposed upon local government by the state must be paid for by the state.<sup>21</sup> If the state compelled separate waiting areas, some counties in Michigan could embark on massive new courthouse construction and send the bills to the state. However, since the implementation of this Act, most courts conscientiously provide for the separation of crime victims, witnesses, and defendants.

A few victims report threats and intimidating behavior from the defendant or the defendant's friends. Providing confidentiality for victims who have reason to be apprehensive, while not impinging upon the defendant's right to confront the accuser, is accomplished as follows:

- (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family, the prosecutor may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.
- (2) The address of the victim shall not be in the court file or ordinary court documents unless contained in a transcript of the trial or it is used to identify the place of the crime. The phone number of the victim shall not be in the court file or ordinary court documents except as contained in a

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17. *Id.* § 780.756(2).

18. *Id.* § 780.756(4)(a).

19. *Id.* § 780.756(4)(b).

20. *Id.* § 780.757.

21. MICH. CONST. art. IX, § 29.

transcript of the trial.<sup>22</sup>

The right to a speedy trial for a defendant is fundamental. Victim organizations across the country have recommended speedy trial rights for victims as well. In Michigan, criminal cases have priority over civil cases. While it is difficult to assign comparative levels of "victimization," certain crime victims such as children may be exceptionally vulnerable. Extending the trial process adds significantly to these victims' distress. Long delays in criminal sexual assault trials can cause exceptional anguish for the victim. This is especially true when, as in Michigan, testing a defendant for AIDS is only mandatory following conviction.<sup>23</sup> For these reasons, child victims and sexual assault victims are entitled to the following consideration:

The chief judge, upon motion of the prosecuting attorney for a speedy trial for a case described in subsection (1) shall set a hearing date within 10 days of the date of the motion. Notice shall be made pursuant to the Michigan court rules. If the motion is granted, the trial shall not be scheduled earlier than 20 days from the date of the hearing.<sup>24</sup>

Early attempts to make victims more active participants in the trial, such as the victims' right to peremptory challenges of potential jurors, have been ruled out. However, victims obviously need a basic understanding of the process. Therefore, upon request, the prosecuting attorney is required to confer with the victim prior to the selection of the jury and the trial.<sup>25</sup>

Plea bargains are an integral part of the criminal justice system, although the public often views them as distasteful and confusing. For this reason, the prosecutor is required to offer victims an opportunity to express their views about the disposition of the case, including plea or sentence negotiations and pretrial diversion programs.<sup>26</sup> However, the only requirement placed upon the prosecutor is to allow the victim's views to be expressed. While the victim cannot control the plea bargaining process, this procedure does give the victim some advance notice of a plea bargain. If the plea bargain seems unjust, some recourse to the ultimate weapon—the media—is available.

Prior to the enactment of the Crime Victim's Rights Act, it was not unusual for victims to be sequestered for much or all of the trial, even if they were not going to be witnesses. A provision in the Act allowing the victim to be present during the entire trial would have

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22. MICH. COMP. LAWS § 780.758 (1989).

23. *Id.* § 333.5129(3); 1988 Mich. Pub. Acts 471.

24. MICH. COMP. LAWS § 780.759(2) (1989).

25. *Id.* § 780.760.

26. *Id.* § 780.756(3).



been publicly popular. However, members of both the prosecution and the defense bar noted that under certain circumstances the presence of victims who would also be witnesses might color the testimony of others. Thus, under the Act:

The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies.<sup>27</sup>

Of course, in the interest of those victims who wish to be present during the entire trial, most prosecutors put victim/witnesses on the stand very early in the trial.

Several components of the Crime Victim's Rights Act were in large part shaped by existing practicalities in the criminal justice system, and refined by the victim's experience. However, other aspects of the Act were purely the result of experience. For example, the victim's employer may not always cooperate in giving the victim time off from work to testify. The employer's lack of cooperation can create a problem for the victim, personally, as well as the prosecutor, who is seeking the victim's availability as a witness. To underscore the importance of victim availability, a criminal penalty may be imposed upon obstructive employers who threaten to discharge or discipline a victim who is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony.<sup>28</sup>

Adequate notice is basic to the implementation of victims' rights. The second of two "lists," describing post-conviction rights, is provided by the prosecuting attorney upon the victim's request after the defendant's conviction. The post-conviction rights include: a notice that a conviction has occurred; the right to make an "impact statement"; and the phone number of the pre-sentence investigator who will be preparing a report for the judge's use at sentencing.<sup>29</sup>

Under Michigan law, a victim can make an impact statement to the pre-sentence investigator or to the judge at the time of sentencing.<sup>30</sup> Early proposed language would have allowed the victim to make an oral statement to the pre-sentence investigator, who would have been required to transcribe the statement, and incorporate it into the pre-sentence report. Probation officers from larger jurisdictions quickly pointed out that with their huge caseloads, verbatim transcription would be impossible. Concurrently, organizations representing sexual assault victims noted that such victims often prefer to make their impact statements orally for the investigator's summarizing discretion. The final language allows the victim two options at the pre-sen-

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27. *Id.* § 780.761.

28. *Id.* § 780.762.

29. *Id.* § 780.763(1).

30. *Id.* § 780.764-765.

tence report phase.<sup>31</sup> The first option is to provide written comments which, at the victim's request, can be appended verbatim to the pre-sentence report. The second option is to allow an oral impact statement. However, the investigator's only duty is to listen to this information. The investigator may exercise discretion in deciding whether to use the information.<sup>32</sup> An oral impact statement may be made to the judge at the time of sentencing, regardless of whether the victim elects to make a statement at the pre-sentence phase.<sup>33</sup>

Restitution is routinely incorporated in most crime victim's rights acts. Clearly, a list of rights without significant restitution provisions would be deficient. For purposes of restitution only, the definition of victim was expanded to include businesses.<sup>34</sup> The Act's restitution section is extensive, and includes payment for typical out-of-pocket expenses.<sup>35</sup> This section includes the costs of physical and occupational therapy, as well as the cost of psychological care for the victim and the victim's family, which at the time was not an ordinary part of restitution.<sup>36</sup> This section specifically allows for payment to those who may have reimbursed the victim for loss, including insurance companies, although the Act prohibits double recovery.<sup>37</sup>

During committee testimony on the legislation, some victims reported that under certain circumstances restitution was difficult to collect, especially if the victim could not afford an attorney. At the suggestion of prosecutors, the law provides that a prosecuting attorney may enforce the collection of restitution in the same manner as a judgment in a civil action.<sup>38</sup>

Michigan's law includes a "Son of Sam" provision, which calls for the establishment of an escrow account when a convicted defendant realizes a profit from the sale of anything describing the crime.<sup>39</sup> Profits recovered from the defendant are directed to be paid in the following order: (1) to satisfy an order of restitution; (2) to satisfy a civil judgment in favor of the victim against the defendant; (3) to reimburse the state or county for the cost of imprisonment; and (4) to insure the remaining balance is split between the family of the de-

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31. *Id.* § 780.764.

32. *Id.*

33. *Id.* § 780.765.

34. *Id.* § 780.766(1).

35. *Id.* § 780.766(4)-(6).

36. *Id.* § 780.766(5)(a), (b), (d).

37. *Id.* § 780.766(7), (10)-(11).

38. *Id.* § 780.766(15).

39. *Id.* § 780.768(1).

defendant and the state's crime victims' compensation fund.<sup>40</sup>

Michigan's prisons have been severely overcrowded since the early 1980s. Subsequently, the Department of Corrections, under a controversial "waiver" process, has been placing inmates who would not ordinarily be eligible for a reduced level of security into minimum security settings.<sup>41</sup> Occasionally, victims who thought defendants were securely confined have been confronted with their victimizer on the public streets. In some instances, victims found that through early furloughs or premature halfway house placements, the defendants were able to harass, intimidate, and attack others. The law provides that upon request, a notice of the earliest possible release date of the prisoner, and a notice of a prisoner's transfer to a community program or any other minimum security or community status must be sent to the victim.<sup>42</sup> Notice to the victim of an escape is compulsory.<sup>43</sup>

Under Michigan's indeterminate sentencing system, the parole board not only establishes when parole is granted, but also the conditions of parole.<sup>44</sup> Victims who ask for notices during the defendant's incarceration are notified and have the right to appear before the parole board.<sup>45</sup> Although Michigan has had very few commutations, reprieves, or pardons in recent years, the Act also provides that the victim is to be notified of a public hearing in that regard, and has a right to attend and make a statement.<sup>46</sup>

Enforcement of victim rights, including restitution, was the topic of many discussions as the legislation was developed, but a civil action for money damages was ruled out as costly and ineffective.<sup>47</sup> Therefore, the Act precludes money damages. Because Michigan's prosecutors, sheriffs, and judges are elected, we felt that the public accountability inherent in such offices would provide powerful incentives to fulfill the requirements of the law. In cases where this responsibility is not exercised, a mandamus action against the public official could apply.<sup>48</sup> A single, well-publicized and successful mandamus action would serve as a powerful warning to those required to implement the Act. In this way, the public can create an incentive for officials to protect victims' rights. In a recent election, an incum-

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40. *Id.* § 780.768(3)(a)-(b), (4).

41. Policy adopted by Michigan Department of Corrections, Mason Building, Lansing, Michigan 48909; see Policy Directive, Bureau of Correctional Facilities, 30.02: Waivers and Departures (1985).

42. MICH. COMP. LAWS § 780.769(1)(a)-(d) (1989).

43. *Id.* § 780.770(1).

44. *Id.* § 791.233, .234, .236(3), .236(4), .265a.

45. *Id.* § 780.771(1).

46. *Id.* § 780.769(1)(i).

47. *Id.* § 780.773.

48. *Id.* § 780.74401, .74411, .74421, .74431.

bent Michigan prosecutor charged by his challenger with failing to adequately provide victims' rights was soundly defeated at the polls.<sup>49</sup> Because the Act is designed to provide rights for crime victims and not to diminish defendants' rights, failure to provide victims their rights cannot be used as grounds to set defendants' convictions or sentences aside.<sup>50</sup>

## II. IMPLEMENTATION AND REFINEMENTS

By early 1988, implementation had proceeded very well; and therefore, only a few refinements were necessary. The original language of the Act provided for notices and the rights accorded victims to exist throughout the entire criminal justice process. Some courts questioned whether such rights could be extended to the appeal process because they were not specifically detailed in the Act. Although the intent of the original Act was to provide rights during appeal, in order to clarify the Act's intent, the following specific language was added:

- (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:
  - (a) That the defendant has filed an appeal of his or her conviction.
  - (b) A brief explanation in plain English of the appeal process, including the possible dispositions.
  - (c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal.
  - (d) The time and place of any appellate court proceedings and any changes in the time or place of those proceedings.
  - (e) The result of the appeal.
- (2) In the event the defendant's conviction is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.<sup>51</sup>

Michigan experiences approximately 600,000 index crimes each year.<sup>52</sup> As only sixteen percent of these crimes are solved by arrest, drawing statistical conclusions about the unsolved balance is difficult.<sup>53</sup> Based upon interviews with juvenile justice professionals, it could be estimated that between twenty to thirty percent of indexed crimes are committed by juveniles. It is evident from these statistics

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49. Election results from November 8, 1988, Alpena County, Michigan.

50. MICH. COMP. LAW § 780.774 (1989).

51. *Id.* § 780.768(a); 1988 Mich. Legis. Serv. § 768a (West).

52. MICHIGAN DEP'T OF STATE POLICE, UNIFORM CRIME REPORT FOR THE STATE OF MICHIGAN (1983-1988). This report is compiled and published annually at 714 South Harrison Road, East Lansing, Michigan 48823. Information relied on was compiled from the 1983 through 1988 editions, inclusive.

53. *Id.*

that a significant number of serious crimes by juveniles result in victimization.<sup>54</sup> The substantial procedural differences between the juvenile division of Michigan's probate courts and the adult courts preclude providing rights for victims of juvenile offenses in the same manner as for victims of adult crimes.

Meanwhile, an emerging network of victim advocates has reported that certain misdemeanors have generated significant loss and suffering. The advocates believed that because of the significance of the loss, victims of these misdemeanors deserve rights similar to those already in place for felonies. However, the system for processing misdemeanors is less formal than the system for processing felonies. Therefore, incorporating rights for misdemeanor victims equivalent to those in the original Act would be unwieldy.

Therefore, I introduced bills to add rights for victims of juvenile crime (House Bill 4240) and victims of certain misdemeanors (House Bill 4857) in early 1987.<sup>55</sup> Upon passage of these bills, the structure of the Crime Victim's Rights Act now incorporates three articles: Article I, the original Act providing rights for victims of felonies; Article II, providing rights for victims of juvenile crime; and Article III, providing rights for victims of "serious misdemeanors." Serious misdemeanors include eight specific misdemeanors which produce significant loss or suffering.<sup>56</sup>

When the Act was written, the prosecutor's involvement in felonies and serious misdemeanors was extensive. It was logical to place the responsibility for implementation of victims' rights in these cases upon the prosecutors. However, the prosecutor's office often was not involved in the juvenile system. As a consequence, the court itself is given considerably more responsibility toward victims of juvenile crime than adult courts are given toward the victims of felonies and serious misdemeanors.

Recent changes in Michigan law will generate more prosecutor involvement in the juvenile system. If a fifteen- or sixteen-year-old is charged with one of seven "life" offenses, the prosecutor now has the discretion either to file a petition in the juvenile court or to file a complaint and warrant with the adult court.<sup>57</sup> If the case is tried in the adult court, all the procedures of a typical felony trial are employed. Upon conviction, the judge can impose a sentence in con-

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54. *Id.*

55. H.R. 4240, 83d Leg., Reg. Sess. (1987) (introduced March 5, 1987 (17 H.J. 76 (1987))). H.R. 4240 was enacted as MICH. COMP. LAWS §§ 780.781-801 (1989), 1988 Mich. Pub. Acts 22. H.R. 4857, 83d Leg., Reg. Sess. (1987) (introduced June 29, 1987 (65 H.J. 2008 (1987))). H.R. 4857 was enacted as MICH. COMP. LAWS §§ 780.811-834 (1989), 1988 Mich. Pub. Acts 21.

56. MICH. COMP. LAWS § 780.811(1)(a)(i)-(viii) (1989).

57. *Id.* § 764.27.

formity with ordinary adult sentencing criteria or a sentence comparable to a juvenile disposition. In addition, the new procedures relax the standards for "waiving" juvenile offenders to an adult court.<sup>58</sup> The greater contact prosecutors now have with the juvenile courts may make it possible to place the notification and follow-up requirements back upon the prosecutor's office.

### III. ARTICLE II: RIGHTS FOR VICTIMS OF JUVENILE CRIME

The Michigan Juvenile Court system focuses upon treatment rather than punishment. Therefore, the juvenile terminology is softer and implicitly denies the criminal nature of delinquency. Juvenile terms needed to be translated into more ordinary criminal justice definitions, so that the rights for victims of juvenile crime would more easily conform to those already in place in the adult system. For example, juveniles commit "offenses" rather than crimes; they are "adjudicated" rather than "tried"; and their cases are given "dispositions" rather than "sentences." For purposes of the Act, juvenile terms are redefined to be more consistent with substantive rights and procedures in adult cases.<sup>59</sup> Although there are some significant differences, the rights provided to victims of juvenile crimes are as consistent as possible with the rights afforded victims of adult crimes. For example, the Act requires that an agency (such as the Department of Social Services) which files a complaint or petition with the court must provide the court with a list of known victims. The list is not a matter of public record.<sup>60</sup>

Providing the victim of a juvenile offense with a comprehensive list of rights is the responsibility of the court and must be accomplished within seventy-two hours after the investigating agency files a complaint or submits a petition.<sup>61</sup> During the development of the felony and misdemeanor articles of the Act, courts, law enforcement agencies, and prosecutors agreed that the prosecutor's office was the logical administrator of the victim's rights, but in many juvenile cases, the prosecutor's involvement was limited or even nonexistent. Thus, the juvenile courts were assigned the obligation of holding the victim's identification for notification purposes.

In Michigan, juvenile cases often were held behind closed doors

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58. *Id.* § 712A.4.

59. *Id.* § 780.781(1)(a)-(f).

60. *Id.* § 780.784.

61. *Id.* § 780.786(1).

and the records sealed.<sup>62</sup> The Crime Victim's Rights Act allowed the victim access to the court and specified that:

The victim has the right to be present throughout the entire contested adjudicative hearing or waiver hearing of the juvenile, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court, for good cause shown, may order the victim to be sequestered until the victim first testifies.<sup>63</sup>

Following adjudication, a list of post-adjudication rights is provided to the victim similar to those for victims of adult crimes.<sup>64</sup> As predisposition reports are not always prepared, the victim's ability to provide information prior to sentencing is limited to the occasions when a report is prepared.<sup>65</sup> In all cases, the victim has the right to make an oral impact statement to the judge at the disposition.<sup>66</sup>

The juvenile restitution provisions include a stipulation that if the juvenile is unable to pay all of the restitution ordered, the court can conduct a hearing and order the custodial parent to pay the unpaid portion up to \$2500.<sup>67</sup>

At a typical disposition, a juvenile who is not acquitted is either retained under the court's jurisdiction or made a ward of the state. The legal responsibility for notifying the victim of the juvenile's escape or release falls to the agency having jurisdiction over the juvenile. Under a recent change in the law, all juveniles who are not acquitted will be retained under the jurisdiction of a court and responsibility for notification will fall to the court.<sup>68</sup>

#### IV. ARTICLE III: VICTIMS OF MISDEMEANORS

Misdemeanor cases and corresponding ordinance violations are heard in the district courts with fewer procedural steps than felonies. Because of the huge number of cases, allowing extensive notification and participation in the court system for every misdemeanor victim would needlessly impede the court's ability to function and could bring the entire district court system to a halt. While many misdemeanors do cause victim losses, the full panoply of victim rights are mandated only for those misdemeanors which generate significant victimization, often involving a personal injury. These misdemeanors are described as "serious misdemeanors."<sup>69</sup> Victims of all misdemeanors should be entitled to restitution. Therefore, the law at-

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62. This practice was changed by statute effective June 1, 1988. *See id.* §§ 28.241-.242, 712A.11, 712A.18.

63. *Id.* § 780.789.

64. *Id.* § 780.791.

65. *Id.* § 780.792.

66. *Id.* § 780.793(1).

67. *Id.* §§ 780.794(17), .798.

68. *Id.* § 780.798.

69. *Id.* § 780.811(1)(a).

tempts to provide restitution for victims of any misdemeanor.<sup>70</sup>

Naturally, there was some debate about which crimes produce the most suffering or loss and deserve the title "serious misdemeanor." Using the experience of professionals, victims, and victims organizations, the following list represents those crimes which typically produce significant harm and loss to victims. The list was not attacked during the legislative process. The eight "serious misdemeanors" are:

- 1) assault and battery;
- 2) assault with infliction of serious injury;
- 3) illegal entry of a home;
- 4) enticing a child for immoral purposes;
- 5) discharge of a firearm intentionally aimed at a person;
- 6) discharge of an intentionally aimed firearm, resulting in injury;
- 7) leaving the scene of a personal injury accident;
- 8) operating a vehicle under the influence of or impaired by alcohol or a controlled substance, if the violation involves an accident resulting in injury to another person.<sup>71</sup>

Michigan's drunk or impaired driving law makes no distinction between driving drunk or impaired, and drunk or impaired driving which causes an accident in which someone is injured. Clearly, an accident resulting in injury produces a victim; therefore, this act makes that distinction.<sup>72</sup>

Many communities draft ordinances corresponding to state law misdemeanors and employ an attorney to prosecute the cases. In order for rights to be accorded to victims of all serious misdemeanors, violations of a local ordinance substantially corresponding to state law are included in the definition of serious misdemeanors.<sup>73</sup> For purposes of serious misdemeanors only, the definition of prosecuting attorney was expanded to include an attorney for a political subdivision which had enacted an ordinance upon which the violation and subsequent prosecution are based.<sup>74</sup>

Under Michigan law there had been no requirement that a misdemeanor victim's name be a part of the police report or any subsequent court record. The court often was unaware of any victim. One notorious case brought that failing into the harsh light of the media. A drunk driving case was prosecuted under a local ordinance by a city attorney rather than a county prosecutor. Apparently, the city attorney was unaware that someone had died as a result of the drunk

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70. *Id.* § 780.826.

71. *Id.* § 780.811(1)(a).

72. *Id.* § 780.811(1)(a)(viii).

73. *Id.* § 780.811(1)(a)(ix).

74. *Id.* § 780.811(1)(f).



driving accident. That fact was not made a part of any court record. If the attorney had known of the death, a felony manslaughter charge would have been appropriate. The defendant pled to a lesser charge, and only later was it discovered that someone had died as a result of the defendant's drunk driving.<sup>75</sup> As a result of such cases, the Crime Victim's Rights Act included the following:

A law enforcement officer investigating a serious misdemeanor involving a victim shall include with the complaint, appearance ticket, or traffic citation filed with the court a separate written statement including the name, address, and phone number of each victim. This separate statement shall not be a matter of public record.<sup>76</sup>

In misdemeanor cases, pleas of guilty or nolo contendere are often accepted at arraignment or during pretrial conferences. Such rapid dispositions make timely notification to and participation by the victim difficult. Accordingly, the Act provides that the prosecuting attorney must be notified by the court within forty-eight hours of arraignment if a plea has been accepted by the court at arraignment. The notification includes the date of sentencing and the name and address of any victim.<sup>77</sup> Within forty-eight hours of receiving the notice, the prosecuting attorney must provide the victim with a complete notice of applicable rights.<sup>78</sup> The notice varies depending on whether the defendant pled guilty and will be sentenced or whether the case will go to trial.<sup>79</sup>

If a pre-sentence investigation report is prepared, the victim has the right to submit a written or oral impact statement to the probation office.<sup>80</sup> If no pre-sentence report is prepared, the court is required to notify the prosecuting attorney of the date and time of sentencing at least ten days prior to the sentencing. The prosecutor must inform the victim of the sentencing date. The victim has the right either to submit a written impact statement or to orally provide an impact statement at the sentencing, or both.<sup>81</sup>

District court judges are required to hear impact statements at the victim's request, but the law does not specify the procedure for hearing them. Several judges have suggested that each judge be allowed to develop a system which would work in that judge's court. This flexibility has not diminished victims' rights to make impact statements. The bills adding rights to victims of misdemeanor and juve-

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75. *People v. Schwander*, No. 87-FY-106 (Kent County Cir. Ct. Jan. 30, 1987) (negligent homicide and operating vehicle under the influence of liquor); *People v. Schwander*, No. 86-CT-3241 (Kent County Dist. Ct. Dec. 15, 1986) (operating vehicle under the influence of liquor).

76. MICH. COMP. LAWS § 780.812 (1989).

77. *Id.* § 780.816(1).

78. *Id.* §§ 780.816(1)(a)-(3).

79. *Id.* § 780.816(3).

80. *Id.* § 780.824.

81. *Id.* § 780.825.

nile crimes were introduced in early 1987, passed the legislature unanimously, and were signed by the Governor. They became effective for crimes committed after June 1, 1988.<sup>82</sup>

#### V. FUNDING AND FURTHER IMPLEMENTATION

This legislation imposed a host of obligations upon prosecutors. Several prosecutors designated specific persons within their staff to work as victim/witness coordinators. From the inception of the legislation, reimbursement for these costs was considered part of the state's accepted responsibility. As the original law headed toward final approval in early 1985, a consortium of prosecutors met with representatives from the Department of Management and Budget to determine approximate costs for the first year of implementation of the Crime Victim's Rights Act, and to develop a formula by which payments would be made for such implementation. To absorb setup costs, it was decided that one-half the estimated annual requirements for each prosecutor's office was to be paid in advance and amortized throughout the year.<sup>83</sup>

The state Office of Criminal Justice is a funding arm of the Department of Management and Budget; it was created when LEAA grants were abundant. It was revitalized with the passage of the Michigan Crime Victim's Rights Act to examine and approve expenditures for the Act's implementation. The relationship between the prosecutor's office and the Office of Criminal Justice is a cautious, but successful one.

The legislature approved the funding. By the effective date of October 9, 1985, the larger and more active counties in Michigan were ready to implement the Act. Wayne County, which includes the City of Detroit, is the largest jurisdiction in Michigan. It accounts for about one-third of the criminal prosecutions in the entire state. The Wayne County Prosecutor, John O'Hair, was a distinguished judge and is now a respected prosecutor. He recognized the importance of making the public and criminal justice professionals aware of victims' rights. Therefore, he arranged for a news conference on the effective date of the Act which was very well attended by the media. At the news conference he announced his intention to fulfill the requirements of the Act. The Wayne County prosecutor's office established

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82. See *supra* note 58.

83. Michigan Department of Management and Budget—Crime Victims Compensation Board, Lewis Cass Building, 320 South Walnut, Lansing, Michigan 48909.

a victim/witness unit which to this day remains a fine example of active participation. The same attitude as John O'Hair's is prevalent in all the active jurisdictions in Michigan. Most prosecutors have established victim/witness units with the exception of some of the rural, low crime counties.

As state funding became available, the individual programs were refined, staffed, and equipped. Each program has become an important part of the prosecutor's office, both practically and politically. The directors of each victim/witness unit have formed an organization which is directed by the Prosecuting Attorneys Association of Michigan. This "forum" retains a strong liaison with the legislature, and represents a powerful voice of the Michigan public on behalf of victims' rights and services.

The Michigan Sheriffs' Association also was receptive to the concept of victims' rights. It became actively involved in the development of the Act. Through its network of county sheriffs, the Association pushed for victim services beyond the rights required by the Act. Both sheriffs and prosecutors recognized that victims' rights reflected sound policy and sound politics.

Nevertheless, there were a few dark clouds. In a few instances, certain prosecutors' offices have respected victims' rights only sporadically. Also, in a few low volume courts, victims' rights have been ignored. The most common complaints of these particular victims involved the failure to provide the *Miranda*-type notice required from the law enforcement agency investigating the reported crime.

Because the involvement of some police agencies was minimal, reimbursement was not important to them. The linkage established by the requirements of the Act, and the funding for the implementation of those requirements, did not generate enough motivation for some police agencies to implement the Act. Consequently, the *Miranda*-type notices were not always provided.

## VI. VICTIMS' RIGHTS IN THE STATE CONSTITUTION

By mid 1987 and early 1988, there was national interest in the state constitutional amendment approach to crime victims' rights. This was particularly true in those states in which the legislatures had been unwilling or unable to enact such rights by statute. Many of those promoting such a constitutional amendment pushed the concept of a broad philosophical statement rather than a specific list of rights. As Michigan had already made its statement by statute, such a philosophical posture would have been redundant.

However, a growing recognition that victims' rights in Michigan deserved constitutional status was enhanced by some related developments. On several occasions certain statutory rights for victims had

been denied by judges, who relied upon a provision in the Michigan Constitution giving judges control over practice and procedure in the courts. The foundation upon which Michigan's constitutional amendment was built included: a basic philosophy of balancing the constitution with crime victims' rights and defendants' rights; giving permanence to victims' rights; providing a means of enforcement; and developing a means by which convicted defendants could pay for the costs of victims' rights.<sup>84</sup>

It would have seemed logical, therefore, to provide for a uniform assessment against convicted defendants to fund victims' rights. All penal fines in Michigan, however, are constitutionally dedicated to fund libraries. An earlier attempt to allow assessments against convicted felons for a law enforcement officer training fund had been held unconstitutional in *People v. Barber*.<sup>85</sup> Initial estimates indicated that an assessment of \$10.00 to \$15.00 per convicted defendant would fund crime victims rights adequately in Michigan.<sup>86</sup>

Model language suggested by organizations promoting constitutional amendments typically reflected broad philosophical statements with few specifics. Such language would provide very little assistance to victims in the absence of implementing detailed legislation. Accordingly, because the Crime Victim's Rights Act in Michigan had been successful for three years, and included all of the fundamental rights recognized as essential for victims, we decided to distill those rights into concise constitutional language. In the usual course of events, statutes are based upon constitutional language. We recognized that this was doing it "backwards," but the impetus was to maintain the Crime Victim's Rights Act. We wanted to elevate the essence of those rights to the state constitution. In fact, the introduction to the joint resolution proposing the constitutional amendment said, "that the following amendment to the state constitution of 1963

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84. See *People v. Boling*, No. 87-056326 (Ingham County Cir. Ct. Dec. 18, 1987); see also MICH. CONST. art. I, § 24 (1963, amended 1988). See *infra* pp. 78-79 for the text of H.R.J. Res. P, 84th Leg., Reg. Sess. (1988).

85. 14 Mich. App. 995, 165 N.W.2d 608 (1968); see MICH. CONST. art. VIII, § 9.

86. Discussions between Rep. William Van Regenmorter; Michael Fullwood, Chairperson, Crime Victims Compensation Board, Michigan Department of Management and Budget; and the Prosecuting Attorneys Association of Michigan (1988-1989). On May 5, 1989, Rep. William Van Regenmorter introduced H.R. 48-69, 85th Leg., Reg. Sess. (1989), to implement the funding portion of the constitutional amendment. As introduced, H.R. 48-69 would have required every defendant convicted after the effective date of the bill to pay an assessment of \$10.00. After senate amendments, the bill as passed requires defendants convicted of the eight serious misdemeanors listed in the Crime Victim's Rights Act to pay assessments of \$20.00 each. 1989 Mich. Pub. Acts 196.

to maintain the rights of victims of crime is proposed, agreed to, and submitted to the people of the state.”<sup>87</sup>

Early think tank sessions on the constitutional amendment involved the concerns of the most skeptical opponents. What about definitions, including that of “crime victim”? “How absolute are the rights”? “Won’t this be an invitation to massive litigation”? It was decided to let the statute control definition and implementation. After considerable research, the following introductory language evolved: “crime victims, as defined as by law, shall have the following rights, as provided by law: . . .”<sup>88</sup> There never was any doubt that the Michigan Crime Victim’s Rights Act already on the books was the law which would accomplish the defining and providing. The word “maintain” in the title of the resolution reinforced that principle.<sup>89</sup>

The phrase “as provided by law” was the result of extensive review, including a computer analysis of state and federal constitutions. Initial language used was “as *prescribed* by law,” but an examination of the two phrases in other constitutions and the case of *Buback v. Governor*<sup>90</sup> pointed squarely to “*provided* by law.” The phrase “provided by law” carries with it not only the legislative duty of implementation by statute, but also the legislative right to limit.

Professor Leroy Lamborn of Wayne State Law School is a strong advocate of crime victims’ rights, but he was not enamored with the idea of placing the rights in the constitution. He pointed out that among other things, without language providing for enforcement or remedies, a host of victim lawsuits could develop. He cited *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*,<sup>91</sup> a federal case which held that absent enforcement or remedy language in a constitutional provision, litigation to enforce listed federal rights is permitted.

Proposed constitutional amendments can be placed on the public ballot by a two-thirds vote of both houses of the legislature. House Joint Resolution P was introduced as follows:

STATE OF MICHIGAN  
84TH LEGISLATURE  
REGULAR SESSION OF 1988

Introduced by Rep. Van Regenmorter

ENROLLED HOUSE  
JOINT RESOLUTION P

A JOINT RESOLUTION proposing an amendment to the state constitution of

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87. See *supra* note 70.

88. See *id.*

89. See H.R.J. Res. P, 84th Leg., Reg. Sess. (1988).

90. 380 Mich. 209, 156 N.W.2d 547 (1968).

91. 403 U.S. 388 (1971).

1963, by adding section 24 to article I, to maintain the rights of victims of crime.

Resolved by the State and House of Representatives of the state of Michigan. That the following amendment to the state constitution of 1963, to maintain the rights of victims of crime, is proposed, agreed to, and submitted to the people of the state:

ARTICLE I

Sec. 24.(1) Crime victims, as defined by law, shall have the following rights, as provided by law:

The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

The right to timely disposition of the case following arrest of the accused.

The right to be reasonably protected from the accused throughout the criminal justice process.

The right to notification of court proceedings.

The right to attend trial and all other court proceedings the accused has the right to attend.

The right to confer with the prosecution.

The right to make a statement to the court at sentencing.

The right to restitution.

The right to information about the conviction, sentence, imprisonment, and release of the accused.

(2) The legislature may provide by law for the enforcement of this section.

(3) The legislature may provide for an assessment against convicted defendants to pay for crime victims' rights.

Resolved further. That the foregoing amendment shall be submitted to the people of the state at the next general election in the manner provided by law.

The first comment is a statement of philosophy followed by enumerated rights. The enumerated rights should be understood in the context of the implementing and limiting powers of the legislature as "provided by law." The rights as provided by law are optional. The victim may elect some, all, or none of the rights. Second, the rights to protection, attendance at trial, and restitution are narrowly defined in the statute. The flexibility achieved by virtue of the legislature's ability to define and implement the constitutional rights has generated a close relationship between the constitutional amendment and the statute. The constitution provides the statute appropriate recognition and stature, while the statute provides the necessary legal detail. The last provision clearly authorizes an across-the-board assessment.

The ballot proposal passed both houses of the legislature with far more than the two-thirds vote necessary, and became Proposal B in the November 8, 1988, general election. With expenditures of less than \$3,000, a network of individual crime victims, victims' organizations, criminal justice professionals, educators, and business and labor

groups campaigned for Proposal B in a very effective grass roots effort. The proposal passed with a four-to-one margin.

The effective date of the constitutional amendment was December 24, 1988. The one out of three residents in Michigan who will be future victims of crime achieved a place in the Michigan Constitution on Christmas Eve. The rights of the person most impacted by any crime—the victim—are now in balance with those of the person charged with committing the crime.

APPENDIX A

**CRIME VICTIM'S RIGHTS ACT**

**P.A. 87, 1985**

**M.C.L. 780.751 et al.**

(Includes amendments)

Introduced by Rep. Van Regenmorter

AN ACT to establish the rights of victims of crime; 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.

*The People of the State of Michigan enact:*

ARTICLE 1

Sec. 1. This act shall be known and may be cited as the "crime victim's rights act."

Sec. 2. (1) As used in this article:

(a) "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 to be a felony.

(b) "Defendant" means a person charged with or convicted of having committed a crime against a victim.

(c) "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.

(d) "*Person*" means an individual, organization, partnership, corporation, or governmental entity.\*

(e) "Prisoner" means a person who has been convicted and sentenced to imprisonment for having committed a crime against a victim.

(f) "*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, and a special prosecuting attorney.\*

(g) "Victim", except for purposes of section 16, 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), or (iv).

(ii) The following relations of a deceased victim if the relation is not the defendant:

(A) The spouse.

(B) A child 15 years of age or older\* if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

\**Italicized language applies to crimes committed after 5/31/88.*



(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age 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.\*

(2) If a victim as defined in subsection (1)(g)(i) is physically unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 15 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical disability. During the physical disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

Sec. 3. Within 24 hours after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency shall give to the victim the following information:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and phone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statement:

"If within 6 months, you are not notified of an arrest in your case, you may call [the law enforcement agency's telephone number] for the status of the case."

Sec. 4. (1) The law enforcement agency having responsibility for investigating a reported crime shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the crime and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

Sec. 5. (1) Not later than 24 hours after the arraignment of the defendant for a crime, the law enforcement agency having responsibility for investigating the crime shall give to the victim *notice of the availability of pretrial release for the defendant*,\* the phone number of the sheriff, and notice that the victim may contact the sheriff to determine whether the defendant has been released from custody.

(2) Based upon the victim's affidavit asserting acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.

Sec. 6. (1) Not later than 7 days after the arraignment of the defendant for a crime, but not less than 24 hours before a preliminary examination, the prosecuting

\**Italicized language applies to crimes committed after 5/31/88.*

attorney shall give to each victim a written notice in plain English of each of the following:

- (a) A brief statement of the procedural steps in the processing of a criminal case.
  - (b) The rights and procedures under this article.
  - (c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.
  - (d) Suggested procedures if the victim is subjected to threats or intimidation.
  - (e) The person to contact for further information.
- (2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.
- (3) The prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of a crime, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.
- (4) A victim who receives a notice under subsection (1) and who chooses to receive any other notice or notices under this article shall keep the following persons informed of the victim's current address and phone number:
- (a) The prosecuting attorney, *until final disposition or completion of the appellate process, whichever occurs later.*\*
  - (b) The department of corrections or the sheriff as directed by the prosecuting attorney if the defendant is imprisoned.

Sec. 7. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.

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

(2) The address of the victim shall not be in the court file or ordinary court documents unless contained in a transcript of the trial or it is used to identify the place of the crime. The phone number of the victim shall not be in the court file or ordinary court documents except as contained in a transcript of the trial.

Sec. 9. (1) As provided in subsection (2), a speedy trial may be scheduled for any case in which the victim is averred by the prosecuting attorney to be either of the following:

- (a) A victim of child abuse, including sexual abuse or any other assaultive crime.

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\**Italicized language applies to crimes committed after 5/31/88.*

(b) A victim of criminal sexual conduct in the first, second, or third degree or of an assault with intent to commit criminal sexual conduct involving penetration or to commit criminal sexual conduct in the second degree.

(2) The chief judge, upon motion of the prosecuting attorney for a speedy trial for a case described in subsection (1), shall set a hearing date within 10 days of the date of the motion. Notice shall be made pursuant to the Michigan court rules. If the motion is granted, the trial shall not be scheduled earlier than 20 days from the date of the hearing.

Sec. 10. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the selection of the jury and prior to the trial of the defendant.

Sec. 11. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies.

Sec. 12. An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor, and may be punished for contempt of court.

Sec. 13. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

- (a) The defendant's conviction.
  - (b) The crimes for which the defendant was convicted.
  - (c) The victim's right to make a written or oral impact statement for use in the preparation of a presentence investigation report concerning the defendant.
  - (d) The address and telephone number of the probation office which is to prepare the presentence investigation report.
  - (e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.
  - (f) The victim's right to make an impact statement at sentencing.
  - (g) The time and place of the sentencing proceeding.
- (2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.
- (3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to the following:
- (a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.
  - (b) An explanation of the extent of any economic loss or property damage suffered by the victim.
  - (c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.
  - (d) The victim's recommendation for an appropriate sentence.

Sec. 14. The victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing a presentence investigation report concerning the defendant pursuant to section 14 of chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 771.14 of the Michigan Compiled Laws. A victim's written statement shall, upon the victim's request, be included in the presentence investigation report.

Sec. 15. The victim shall have the right to appear and make an oral impact statement at the sentencing of the defendant.

Sec. 16. (1) For purposes of this section only, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime; and for purposes of subsections (2), (3), (4), (7), (9), (10), (11), and (15), "victim" includes a sole proprietorship, partnership, or corporation.

(2) The court, when sentencing a defendant convicted of a crime, may order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make restitution to any victim of the defendant's course of conduct which gives rise to the conviction, or to the victim's estate.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a crime results in damage to or loss or destruction of property of a victim of the offense, the order of restitution may require that the defendant do either of the following:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraphs (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of sentencing.

(5) If a crime results in physical or psychological injury to a victim, the order of restitution may require that the defendant do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.

(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family which has been incurred as a result of the offense.

(6) If a crime resulting in bodily injury also results in the death of a victim, the order of restitution may require that the defendant pay an amount equal to the cost of actual funeral and related services.

(7) Instead of restitution under subsections (4) to (6), if the victim or victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the crime.

(8) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(9) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the sentencing process.

(10) The court shall not order restitution with respect to a loss for which the victim or victim's estate has received or is to receive compensation, including insurance, except that the court may, in the interest of justice, order restitution to the crime victims compensation board or to any *individuals, organizations, partnerships, corporations, or governmental entities\** that have compensated the victim or victim's estate for such a loss to the extent of the compensation paid. An order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person under that order is made.

(11) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.

(12) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments. The end of the period or the last installment shall not be later than the following:

(a) The end of the period of probation, if probation is ordered.

(b) Two years after the end of imprisonment or discharge from parole, whichever occurs later, if the court does not order probation.

(c) Three years after the date of sentencing in any other case.

(13) If the defendant is placed on probation or paroled, any restitution ordered under this section shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the defendant's employment status, earning ability, financial resources, and the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(14) A defendant who is required to pay restitution and who is not in willful default of the payment of the restitution, at any time, may petition the sentencing judge or his or her successor for a cancellation of any unpaid portion of restitution. If it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the defendant or his or her immediate family, the court may cancel all or part of the amount due in restitution or modify the method of payment.

(15) An order of restitution may be enforced by the prosecuting attorney or a victim or victim's estate named in the order to receive the restitution in the same manner as a judgment in a civil action.

*\*Italicized language applies to crimes committed after 5/31/88.*

(16) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of parole or probation, or otherwise, for failure to pay restitution as ordered under this section unless the court determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

Sec. 17. (1) The court, in determining whether to order restitution under section 16 and the amount of that restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources and earning ability of the defendant, the financial needs of the defendant and the defendant's dependents, and such other factors as the court considers appropriate.

(2) The court may order the probation officer to obtain information pertaining to the factors set forth in subsection (1). The probation officer shall include the information collected in the presentence investigation report or in a separate report, as the court directs.

(3) The court shall disclose to both the defendant and the prosecuting attorney all portions of the presentence or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the earning ability of the defendant and the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and the defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

Sec. 18. (1) A person convicted of a crime shall not derive any profit from the sale of his or her recollections, thoughts, and feelings with regard to the offense committed by that person until the victim receives any restitution or compensation ordered for him or her against the defendant and expenses of incarceration are recovered as provided in subsection (3) and until the escrow account created under subsection (2) is terminated under subsection (4).

(2) Upon the conviction of a defendant for a crime involving a victim, and after notice to any interested party, an attorney for the county in which the conviction occurred or the attorney general may petition the court in which the conviction occurred to order that defendant forfeit all or any part of proceeds received or to be received by the defendant, or the defendant's representatives or assignees, from contracts relating to the depiction of the crime or the defendant's recollections, thoughts, or feelings about the crime, in books, magazines, media entertainment, or live entertainment. The proceeds shall be held in escrow for a period of not more than 5 years.

(3) During the existence of the escrow account, proceeds in the account shall be distributed in the following priority for the following purposes:

(a) To satisfy an order of restitution entered under sections 16 and 17.

(b) To satisfy any civil judgment in favor of the victim against that defendant.

(c) To satisfy any reimbursement ordered under the prisoner reimbursement to the county act, Act No. 118 of the Public Acts of 1984, being sections 801.81 to 801.93

of the Michigan Compiled Laws, or ordered under the state correctional facility reimbursement act, Act No. 253 of the Public Acts of 1935, being sections 800.401 to 800.406 of the Michigan Compiled Laws.

(4) Fifty percent of the balance remaining in the escrow account at the end of the escrow period shall be payable to the defendant and the remaining 50% of the balance shall be payable to the state general fund for use of the crime victims compensation board to pay compensation claims.

*Sec. 18a. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:*

*(a) That the defendant has filed an appeal of his or her conviction.*

*(b) A brief explanation in plain English of the appeal process, including the possible dispositions.*

*(c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal.*

*(d) The time and place of any appellate court proceedings and any changes in the time or place of those proceedings.*

*(e) The result of the appeal.*

*(2) In the event the defendant's conviction is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.\**

Sec. 19. (1) Upon the written request of a victim of a crime, the sheriff or the department of corrections shall mail to the victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff or the department for commission of that crime:

(a) Within 30 days after the request, notice of the sheriff's calculation of the earliest release date of the prisoner, or the department's calculation of the earliest parole eligibility date of the prisoner, with all potential good time or disciplinary credits considered if the sentence of imprisonment exceeds 90 days. The victim may request 1-time only notice of the calculation described in this subdivision.

(b) Notice of the transfer or pending transfer of the prisoner to a minimum security facility and the address of that facility.

(c) Notice of the release or pending release of the prisoner in a community residential program, under extended furlough, or any other transfer of a prisoner to community status.

(d) Notice of any reduction in the minimum sentence resulting under the prison overcrowding emergency powers act, Act No. 519 of the Public Acts of 1980, being sections 800.71 to 800.79 of the Michigan Compiled Laws.

(e) Notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim, as provided in section 20.

(f) Notice of the victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole, as provided in section 21.

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\**Italicized language applies to crimes committed after 5/31/88.*

(g) Notice of the decision of the parole board, or any other panel having authority over the prisoner's release on parole, after a parole review, as provided in section 21(3).

(h) Notice of the release of a prisoner 90 days before the date of the prisoner's discharge from prison where practical, unless the notice has been otherwise provided under this article.

(i) Notice of a public hearing pursuant to section 44 of Act No. 232 of the Public Acts of 1953, being section 791.244 of the Michigan Compiled Laws, regarding a reprieve, commutation, or pardon of the prisoner's sentence by the governor.

*(j) Notice that a reprieve, commutation, or pardon has been granted.\**

(2) A victim's address and telephone number maintained by a sheriff or the department of corrections pursuant to a request for notice under subsection (1) shall be exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 20. (1) As provided in subsection (2) or (3), a victim who requests notice of the escape and the prosecuting attorney who is prosecuting or has prosecuted the crime for which the person is detained or under sentence shall be given immediate notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(2) If the escape occurs before the sentence is executed or before the defendant is delivered to the department of corrections, the chief law enforcement officer of the agency in charge of the person's detention shall give notice of the escape to the prosecuting attorney, who shall then give notice of the escape to a victim who requested notice.

(3) If the defendant is confined pursuant to a sentence, the notice shall be given by the chief administrator of the place in which the prisoner is confined.

Sec. 21. (1) A victim shall have the right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole.

(2) Not less than 30 days before a review of the prisoner's release, a victim who has requested notice under section 19(1)(f) shall be given written notice by the department of corrections informing the victim of the pending review and of victims' rights under this section. The victim, at his or her own expense, may be represented by counsel at the review.

(3) A victim shall receive notice of the decision of the board or panel and, if applicable, notice of the date of the prisoner's release on parole. Notice shall be mailed within a reasonable time after the board or panel reaches its decision but not later than 14 days after the board or panel has reached its decision.

Sec. 22. Upon the request of a victim, the prosecuting attorney shall, within 30 days of the final disposition of the case, notify the victim in writing of the final disposition of the case.

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\**Italicized language applies to crimes committed after 5/31/88.*



Sec. 23. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, or instrumentalities, or employees.

Sec. 24. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

Sec. 25. (1) This article shall take effect October 9, 1985.

(2) This article shall apply only to crimes committed on or after October 9, 1985.

## ARTICLE 2

Sec. 31. (1) As used in this article:

(a) "Court" means the juvenile division of the probate court.

(b) "Juvenile" means a child within the jurisdiction of the juvenile division of the probate court pursuant to section 2(a)(1) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, for an offense.

(c) "Offense" means 1 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 to be a felony.

(ii) A violation of section 81, 81a, 115, 145a, 234, or 235 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81, 750.81a, 750.115, 750.145a, 750.234, and 750.235 of the Michigan Compiled Laws.

(iii) A violation of section 617a, or if the violation involves an accident resulting in injury to another's person, section 625 or 625b of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.617a, 257.625, and 257.625b of the Michigan Compiled Laws.

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

(d) "Person" means an individual, organization, partnership, corporation, or governmental entity.

(e) "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, and 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.

(f) "Victim", except for the purposes of section 44, 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), or (iv).

(ii) The following relations of a deceased victim if the relation is not the juvenile offender:

(A) The spouse.

(B) A child 15 years of age or older if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age 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.

(2) If a victim as defined in subsection (1)(f)(i) is physically unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 15 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical disability. During the physical disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

Sec. 32. Within 24 hours after the initial contact between the victim of a reported offense and the law enforcement agency having the responsibility for investigating that offense, that agency shall give to the victim the following information:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and phone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statement: "If within 6 months you are not notified of an arrest in your case, you may call [the law enforcement agency's telephone number] for the status of the case."

Sec. 33. (1) The law enforcement agency having responsibility for investigating a reported offense shall promptly return to the victim property belonging to that victim that is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property that is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the offense and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

Sec. 34. The investigating agency that files a complaint or submits a petition seeking to invoke the court's jurisdiction for a juvenile offense shall file with the complaint or petition a separate statement listing any known victims of the juvenile offense and their addresses and phone numbers. This separate statement shall not be a matter of public record.

Sec. 35. (1) If the juvenile has been placed in a detention facility, not later than 24 hours after the preliminary hearing of that juvenile for a juvenile offense, the court shall give to the victim the phone number of the detention facility and notice that the

victim may contact the detention facility to determine whether the juvenile has been released from custody.

(2) Based upon the victim's affidavit asserting acts or threats of physical violence or intimidation by the juvenile or at the juvenile's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the juvenile be placed in detention.

Sec. 36. (1) Within 72 hours after the investigating agency files a complaint or submits a petition seeking to invoke the court's jurisdiction for a juvenile offense, the court shall give to each victim a written notice in plain English of each of the following:

(a) A brief statement of the procedural steps in the processing of a juvenile offense case, including the fact that a juvenile may be waived to the court of general criminal jurisdiction.

(b) The rights and procedures under this article.

(c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.

(d) Suggested procedures if the victim is subjected to threats or intimidation.

(e) The person to contact for further information.

(2) If requested by the victim, the court shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) If the prosecuting attorney makes an appearance in the case, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the victim's views about the disposition of a juvenile offense, including the victim's views about dismissal, waiver, and disposition negotiations.

(4) The victim who receives a notice under subsection (1) and who chooses to receive any other notice or notices under this article shall keep the following persons informed of the victim's current address and phone number:

(a) The court.

(b) If the juvenile is made a ward of the state, the department of social services.

Sec. 37. The court shall provide a waiting area for the victim separate from the juvenile, the juvenile's relatives, and the juvenile's witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with the juvenile, the juvenile's relatives, and the juvenile's witnesses during court proceedings.

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

Sec. 39. The victim has the right to be present throughout the entire contested adjudicative hearing or waiver hearing of the juvenile, unless the victim is going to

be called as a witness. If the victim is going to be called as a witness, the court, for good cause shown, may order the victim to be sequestered until the victim first testifies.

Sec. 40. An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor, and may be punished for contempt of court.

Sec. 41. (1) The court, upon and in accordance with the request of the victim, shall give to the victim notice of both of the following:

(a) The offenses for which the juvenile was adjudicated.

(b) The victim's right to make a written or oral impact statement at a disposition hearing.

(c) The time and place of the disposition proceeding.

(2) If there is to be a report prepared for the purpose of disposition concerning the juvenile, the person preparing the report shall give notice to the victim of all of the following:

(a) The victim's right to make a written or oral impact statement for use in the preparation of the report.

(b) The address and telephone number of the person who is to prepare the report.

(c) That the report and any statement of the victim included in the report will be made available to the juvenile unless exempted from disclosure by the court.

(3) A notice given under subsections (1) and (2) shall inform the victim that his or her impact statement may include, but shall not be limited to, the following:

(a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.

(b) An explanation of the extent of any economic loss or property damage suffered by the victim.

(c) An opinion of the need for, and extent of, restitution and whether the victim has applied for or received compensation for loss or damage.

(d) The victim's recommendation for an appropriate disposition.

Sec. 42. If there is to be a report prepared for the purpose of disposition concerning the juvenile, the victim shall be permitted to submit a written or oral impact statement to the person preparing the report for use by that person in the preparation of the report. Upon the victim's request, a victim's written statement shall be included in the report.

Sec. 43. (1) The victim shall have the right to appear and make an oral impact statement at the disposition of the juvenile.

(2) Upon request, the victim shall be notified by the court of the disposition of the juvenile's offense not more than 14 days after the disposition is made.

Sec. 44. (1) For purposes of this section only, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the

commission of an offense; and for purposes of subsections (2), (4), (7), (9), (10), (11), and (15), "victim" includes a sole proprietorship, partnership, or corporation.

(2) The court, at the dispositional hearing for a juvenile offense, may order, in addition to or in lieu of any other disposition authorized by law, that the juvenile make restitution to any victim or victim's estate of the juvenile's course of conduct which gives rise to the disposition.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a juvenile offense results in damage to or loss or destruction of property of a victim of the offense, the order of restitution may require that the juvenile do either of the following:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraphs (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of disposition.

(5) If a juvenile offense results in physical or psychological injury to a victim, the order of restitution may require that the juvenile do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.

(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family which has been incurred as a result of the offense.

(6) If a juvenile offense resulting in bodily injury also results in the death of a victim, the order of restitution may require that the juvenile pay an amount equal to the cost of actual funeral and related services.

(7) Instead of restitution under subsections (4) to (6), if the victim or victim's estate consents, the order of restitution may require that the juvenile make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the offense.

(8) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(9) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the disposition process.

(10) The court shall not order restitution with respect to a loss for which the victim or victim's estate has received or is to receive compensation, including insurance, except that the court may, in the interest of justice, order restitution to the crime victims compensation board or to any individuals, organizations, partnerships, corporations, or governmental entities that have compensated the victim or victim's

estate for such a loss to the extent of the compensation paid. An order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person under that order is made.

(11) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.

(12) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the juvenile make restitution under this section within a specified period or in specified installments. The end of the period or the last installment shall not be later than the following:

(a) The end of the period of probation, if probation is ordered.

(b) If the juvenile is made a state ward, when the department of social services' jurisdiction over the juvenile expires.

(c) If the juvenile is made a ward of the court, when the court's jurisdiction over the juvenile expires.

(d) Three years after the date of disposition or when the court's jurisdiction over the juvenile expires, whichever is later.

(13) If the juvenile is placed on probation, any restitution ordered under this section shall be a condition of that probation. The court may revoke probation if the juvenile fails to comply with the order and if the juvenile has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the juvenile's employment status, earning ability, financial resources, and the willfulness of the juvenile's failure to pay, and any other special circumstances that may have a bearing on the juvenile's ability to pay.

(14) A juvenile who is required to pay restitution and who is not in willful default of the payment of the restitution, at any time, may petition the court for a cancellation of any unpaid portion of restitution. If it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the juvenile or his or her immediate family, the court may cancel all or part of the amount due in restitution or modify the method of payment.

(15) An order of restitution may be enforced by the prosecuting attorney or a victim or victim's estate named in the order to receive the restitution in the same manner as a judgment in a civil action.

(16) Notwithstanding any other provision of this section, a juvenile shall not be detained for a violation of probation, or otherwise, for failure to pay restitution as ordered under this section unless the court determines that the juvenile has the resources to pay the ordered restitution and has not made a good faith effort to do so.

(17) If the juvenile is unable to pay all of the restitution ordered, after notice to the juvenile's custodial parent and an opportunity for the parent to be heard, the court may order the custodial parent to pay all or part of the unpaid portion of the restitution ordered. The amount of restitution the parent is ordered to pay under this subsection shall not exceed \$2,500.00.

(18) If the court orders the custodial parent to pay restitution under subsection (17), the court shall take into account the financial resources of the parent and the burden that the payment of restitution will impose, with due regard to any other

moral or legal financial obligations that the parent may have. If a parent is required to pay restitution under subsection (17), the court shall provide for payment to be made in specified installments and within a specified period of time.

(19) A parent who has been ordered to pay restitution under subsection (17) may petition the court for a modification of the amount of restitution owed or for a cancellation of any unpaid portion of the restitution. The court shall cancel all or part of the amount of restitution due, if it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the parent.

Sec. 45. (1) The court, in determining whether to order restitution under section 44 and the amount of that restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources and earning ability of the juvenile, the financial needs of the juvenile and the juvenile's dependents, and such other factors as the court considers appropriate.

(2) The court may order the person preparing a report for the purpose of disposition to obtain information pertaining to the factors set forth in subsection (1). That person shall include the information collected in the disposition report or in a separate report, as the court directs.

(3) The court shall disclose to both the juvenile and the prosecuting attorney all portions of the disposition or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the earning ability of the juvenile and the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the juvenile and the financial needs of the juvenile and the juvenile's dependents shall be on the juvenile. The burden of demonstrating such other matters as the court considers appropriate shall be upon the party designated by the court as justice requires.

Sec. 46. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the juvenile has filed an appeal of his or her adjudication.

(b) A brief explanation in plain English of the appeal process, including the possible dispositions.

(c) Whether the juvenile has been released on bail or other recognizance pending the disposition of the appeal.

(d) The time and place of any appellate court proceedings and any changes in the time or place of those proceedings.

(e) The result of the appeal.

(2) In the event the juvenile's adjudication is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.

Sec. 47. (1) A juvenile adjudicated for an offense shall not derive any profit from the sale of his or her recollections, thoughts, and feelings with regard to the offense committed by that juvenile until the victim receives any restitution or compensation ordered for him or her against the juvenile and expenses of incarceration are

recovered as provided in subsection (3) and until the escrow account created under subsection (2) is terminated under subsection (4).

(2) Upon the disposition of a juvenile offense involving a victim, and after notice to any interested party, an attorney for the county in which the disposition occurred or the attorney general may petition the court in which the disposition occurred to order that juvenile forfeit all or any part of proceeds received or to be received by the juvenile, or the juvenile's representatives or assignees, from contracts relating to the depiction of the offense or the juvenile's recollections, thoughts, or feelings about the offense, in books, magazines, media entertainment, or live entertainment. The proceeds shall be held in escrow for a period of not more than 5 years.

(3) During the existence of the escrow account, proceeds in the account shall be distributed in the following priority for the following purposes:

(a) To satisfy an order of restitution entered under sections 44 and 45.

(b) To satisfy any civil judgment in favor of the victim against that juvenile.

(c) To satisfy any reimbursement ordered under section 18 of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.18 of the Michigan Compiled Laws.

(4) Fifty percent of the balance remaining in the escrow account at the end of the escrow period shall be payable to the juvenile and the remaining 50% of the balance shall be payable to the state general fund for use of the crime victims compensation board to pay compensation claims.

Sec. 48. (1) Upon request, the court or the department of social services shall make a good faith effort to notify the victim before either of the following occurs:

(a) The juvenile is dismissed from court jurisdiction or discharged from the department of social services jurisdiction.

(b) The juvenile is transferred from a secure detention or treatment facility to a nonsecure residential treatment facility located in the county in which the victim resides.

(2) If the court or department of social services is not successful in notifying the victim before subsection (1)(a) or (b) occurs, the court or department of social services shall notify the victim as soon as possible after the occurrence of subsection (1)(a) or (b).

(3) Upon the victim's request, the department of social services or the court shall give to the victim notice of a juvenile's escape from a secure detention or treatment facility. A victim who requests notice of an escape shall be given immediate notice of the escape by any means reasonably calculated to give prompt actual notice.

Sec. 49. If requested, a victim shall be provided with a certified copy of the order of an adjudicative hearing for purposes of obtaining relief pursuant to section 2913 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2913 of the Michigan Compiled Laws.

Sec. 50. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, or a municipality or any of their agencies, instrumentalities, or employees.

Sec. 51. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the juvenile to seek to have any proceeding set aside.



Sec. 52. (1) This article shall take effect June 1, 1988.

(2) This article shall apply only to offenses committed on or after June 1, 1988.

### ARTICLE 3

Sec. 61. (1) As used in this article:

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

(i) A violation of section 81 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.81 of the Michigan Compiled Laws, assault and battery.

(ii) A violation of section 81a of Act No. 328 of the Public Acts of 1931, being section 750.81a of the Michigan Compiled Laws, assault; infliction of serious injury.

(iii) A violation of section 115 of Act No. 328 of the Public Acts of 1931, being section 750.115 of the Michigan Compiled Laws, breaking and entering or illegal entry.

(iv) A violation of section 145a of Act No. 328 of the Public Acts of 1931, being section 750.145a of the Michigan Compiled Laws, enticing a child for immoral purposes.

(v) A violation of section 234 of Act No. 328 of the Public Acts of 1931, being section 750.234 of the Michigan Compiled Laws, discharge of a firearm intentionally aimed at a person.

(vi) A violation of section 235 of Act No. 328 of the Public Acts of 1931, being section 750.235 of the Michigan Compiled Laws, discharge of an intentionally aimed firearm resulting in injury.

(vii) A violation of section 617a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.617a of the Michigan Compiled Laws, leaving the scene of a personal injury accident.

(viii) A violation of section 625 or 625b of Act No. 300 of the Public Acts of 1949, being sections 257.625 and 257.625b of the Michigan Compiled Laws, operating a vehicle while under the influence of or impaired by alcohol or a controlled substance, if the violation involves an accident resulting in injury to another's person.

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

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

(c) "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.

(d) "Person" means an individual, organization, partnership, corporation, or governmental entity.

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

(f) "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, and 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.

(g) "Victim", except for purposes of section 76, 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), or (iv).

(ii) The following relations of a deceased victim if the relation is not the defendant:

(A) The spouse.

(B) A child 15 years of age or older if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age 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.

(2) If a victim as defined in subsection (1)(g)(i) is physically unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 15 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical disability. The victim shall inform the prosecuting attorney of who is to act in place of the victim. During the physical disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

(3) An individual who is charged with a serious misdemeanor or a crime as defined in article 1 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. 62. A law enforcement officer investigating a serious misdemeanor involving a victim shall include with the complaint, appearance ticket, or traffic citation filed with the court a separate written statement including the name, address, and phone number of each victim. This separate statement shall not be a matter of public record.

Sec. 63. Within 24 hours after the initial contact between the victim of a reported serious misdemeanor and the law enforcement agency having the responsibility for investigating that serious misdemeanor, that agency shall give to the victim the following information:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and phone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statement:

"If within 6 months, you are not notified of an arrest in your case, you may call [the law enforcement agency's telephone number] for the status of the case."

**Sec. 64. (1)** The law enforcement agency having responsibility for investigating a reported serious misdemeanor shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the serious misdemeanor and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

**Sec. 65. (1)** Not later than 72 hours after the arrest of the defendant for a serious misdemeanor, the law enforcement agency having responsibility for investigating the serious misdemeanor shall give to the victim notice of the availability of pretrial release for the defendant, the phone number of the sheriff, and notice that the victim may contact the sheriff to determine whether the defendant has been released from custody.

(2) If the victim submits an affidavit asserting acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney, based on the victim's affidavit, may move that the bond or personal recognizance of a defendant be revoked.

**Sec. 66. (1)** If a plea of guilty or nolo contendere is accepted by the court at the time of the arraignment of the defendant for a serious misdemeanor, the court shall notify the prosecuting attorney of the plea and the date of sentencing within 48 hours after the arraignment. If no guilty or nolo contendere plea is accepted at the arraignment and further proceedings will be scheduled, the court shall also notify the prosecuting attorney within 48 hours after the arraignment. A notice to the prosecuting attorney under this subsection shall include the name, address, and phone number of the victim. Within 48 hours after receiving this notice, the prosecuting attorney shall give to each victim a written notice in plain English of each of the following:

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

(b) The rights and procedures under this article.

(c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.

(d) Suggested procedures if the victim is subjected to threats or intimidation.

(e) The person to contact for further information.

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

(3) If the defendant has not already entered a plea of guilty or nolo contendere at the arraignment, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of the serious misdemeanor, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

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

(5) A victim who receives a notice under subsection (1) or (2) and who chooses to receive any other notice or notices under this article shall keep the following persons informed of the victim's current address and phone number:

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

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

Sec. 67. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.

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

Sec. 69. An expedited trial may be scheduled for any case in which the victim is averred by the prosecuting attorney to be a child.

Sec. 70. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the trial of the defendant.

Sec. 71. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies.

Sec. 72. An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor and may be punished for contempt of court.

Sec. 73. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

(a) The defendant's conviction.

(b) The offenses for which the defendant was convicted.

(c) If a presentence investigation report is to be prepared, the victim's right to make a written or oral impact statement for use in the preparation of the presentence investigation report concerning the defendant.

(d) The address and telephone number of the probation office which is to prepare the presentence investigation report.

(e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.

(f) The victim's right to make an impact statement at sentencing.

(g) The time and place of the sentencing proceeding.

(2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.

(3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to the following:

(a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.

(b) An explanation of the extent of any economic loss or property damage suffered by the victim.

(c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.

(d) The victim's recommendation for an appropriate sentence.

Sec. 74. If a presentence investigation report concerning the defendant is prepared, the victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing the report pursuant to section 14 of chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 771.14 of the Michigan Compiled Laws. A victim's written statement shall, upon the victim's request, be included in the presentence investigation report.

Sec. 75. If no presentence report is prepared, the court shall notify the prosecuting attorney of the date and time of sentencing at least 10 days prior to the sentencing. The victim shall have the right to submit a written impact statement and shall have the right to appear and make an oral impact statement at the sentencing of the defendant. The court shall consider the victim's statement in imposing sentence on the defendant.

Sec. 76. (1) As used in this section:

(a) "Victim" means an individual who suffers actual financial loss or expense as a result of the commission of a misdemeanor, and for purposes of subsections (2), (3), (4), (6), (8), (9), and (10), victim includes a sole proprietorship, partnership, or corporation.

(b) "Misdemeanor" means a violation of a law of this state, or of a local ordinance substantially corresponding to a law of this state, that is punishable by imprisonment for not more than 1 year or by a fine that is not a civil fine, but is not a felony.

(2) The court, when sentencing a defendant convicted of a misdemeanor, may order, in addition to or in lieu of any other penalty authorized by law, or in addition to any other penalty required by law, that the defendant make restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a misdemeanor results in damage to or loss or destruction of property of a victim of the offense, the order of restitution may require that the defendant do either of the following:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraphs (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of sentencing.

(5) If a misdemeanor results in physical injury to a victim, the order of restitution may require that the defendant do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of the victim's actual medical and related professional services and devices relating to the physical care.

(b) Pay an amount equal to the cost of the victim's actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.

(6) Instead of restitution under subsections (4) and (5), if the victim or victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the misdemeanor.

(7) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(8) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the sentencing process.

(9) The court shall not order restitution with respect to a loss for which the victim or victim's estate has received or is to receive compensation, including insurance, except that the court may, in the interest of justice, order restitution to the crime victims compensation board or to any individuals, organizations, partnerships, corporations, or governmental entities that have compensated the victim or victim's estate for such a loss to the extent of the compensation paid. An order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person under that order is made.

(10) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.

(11) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments.

(12) In determining the amount of restitution, the court shall consider the defendant's earning ability, financial resources, and any other special circumstances that may have a bearing on the defendant's ability to pay.

Sec. 77. Upon the request of a victim, the prosecuting attorney shall, within 30 days after the final disposition of the case, notify the victim in writing of the final disposition of the case.

Sec. 78. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

- (a) That the defendant has filed an appeal of his or her conviction.
- (b) A brief explanation in plain English of the appeal process, including the possible dispositions.
- (c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal.
- (d) The time and place of any appellate court proceedings and any changes in the time or place of those proceedings.
- (e) The result of the appeal.

(2) In the event the defendant's conviction is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.

Sec. 79. (1) Upon the written request of the victim, the sheriff shall notify the victim of the earliest possible release date of the defendant if the defendant is sentenced to more than 92 days' imprisonment.

(2) The victim's written request for notice under this section shall include the victim's address.

Sec. 80. A victim's address and telephone number maintained by a court or a sheriff pursuant to this article is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 81. (1) A person convicted of a serious misdemeanor shall not derive any profit from the sale of his or her recollections, thoughts, and feelings with regard to the offense committed by that person until the victim receives any restitution or compensation ordered for him or her against the defendant and expenses of incarceration are recovered as provided in subsection (3) and until the escrow account created under subsection (2) is terminated under subsection (4).

(2) Upon the conviction of a defendant for a serious misdemeanor involving a victim, and after notice to any interested party, an attorney for the county in which the conviction occurred or the attorney general may petition the court in which the conviction occurred to order that defendant forfeit all or any part of proceeds received or to be received by the defendant, or the defendant's representatives or assignees, from contracts relating to the depiction of the crime or the defendant's recollections, thoughts, or feelings about the crime, in books, magazines, media entertainment, or live entertainment. The proceeds shall be held in escrow for a period of not more than 5 years.

(3) During the existence of the escrow account, proceeds in the account shall be distributed in the following priority for the following purposes:

- (a) To satisfy an order of restitution entered under section 76.

(b) To satisfy any civil judgment in favor of the victim against that defendant.

(c) To satisfy any reimbursement ordered under the prisoner reimbursement to the county act, Act No. 118 of the Public Acts of 1984, being sections 801.81 to 801.93 of the Michigan Compiled Laws, or ordered under the state correctional facility reimbursement act, Act No. 253 of the Public Acts of 1935, being sections 800.401 to 800.406 of the Michigan Compiled Laws.

(4) Fifty percent of the balance remaining in the escrow account at the end of the escrow period shall be payable to the defendant and the remaining 50% of the balance shall be payable to the state general fund for use of the crime victims compensation board to pay compensation claims.

Sec. 82. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, instrumentalities, or employees.

Sec. 83. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

Sec. 84. (1) This article shall take effect June 1, 1988.

(2) This article shall apply only to misdemeanors committed on or after June 1, 1988.



# S U M M A R Y

## P.A. 87, 1985 Crime Victim's Rights Act

- ARTICLE I** (Applies to victims of felonies and 2 year misdemeanors.)
- Section 2.** Definition of crime includes felonies and 2 year misdemeanors.  
● Various definitions.
- Section 3.** Within 24 hours law enforcement agency provides victim with following information:  
● Emergency services.  
● Victim's compensation details.  
● Victim's rights contact in prosecutor's office.  
● Who to contact if no arrest within 6 months.
- Section 4.** Law enforcement agency:  
● Returns victim's property promptly.  
● Also allows for photos so evidence property can be returned.
- Section 5.** Law enforcement:  
● Provides notice of availability of pretrial release.  
● Provides method for victim to know if defendant is released from custody before trial.  
● Bond revocation procedure if victim certifies threats or intimidation.
- Section 6.** Prosecutor notifies victim in plain English of:  
● Rights and procedures under this article.  
● Statement of the court process.  
● Victim's compensation details.  
● Threat and intimidation information and procedures for protection.  
● Schedule of court proceedings and changes.  
● Consultation about disposition of case, including plea bargaining.  
● Address requirement.
- Section 7.** Court to provide separate waiting area for victim separate from defendant or defense witnesses.
- Section 8.** Confidentiality of victim's address, place of employment, etc.
- Section 9.** Speedy trial for child abuse and criminal sexual conduct cases.
- Section 10.** Upon request, victim confers with prosecutor prior to jury selection and trial.
- Section 11.** Right of victim to be present at trial.
- Section 12.** Victim protection from employer discipline for required court appearances.

- Section 13.** Notice to victim of:
- Conviction.
  - Crimes of conviction.
  - Right to presentence report impact statement and notice statement may be available to defendant.
  - Right to impact statement at sentencing.
  - Time and place of sentence.
  - Detail of impact statement.
- Section 14.** Presentence victim impact statement.
- Section 15.** Right to impact statement at sentencing.
- Section 16.** Restitution:
- Individuals and businesses are eligible.
  - Property return or restoration.
  - Cost of physical or psychological care.
  - Loss of income.
  - Funeral expenses.
  - Services in lieu of money.
  - Time limits.
  - Restitution as a condition of probation or parole.
  - Enforcement of restitution.
- Section 17.** Court consideration in determining restitution.
- Section 18.** "Son of Sam" requirement provides for profits from crime story in escrow 5 years. Proceeds to be used for:
- Restitution to the victim.
  - Satisfying civil judgment against defendant in favor of victim.
  - Payment for room and board in jail or prison.
  - Balance, if any, split between the state and defendant's family.
- Section 18a.** Notice to victim of:
- Appeal.
  - Explanation of appeal procedure.
  - Time and place.
  - Result of appeal.
- Section 19.** Notice to victim of:
- Earliest projected prison release date.
  - Transfer to minimum security.
  - Release to community program.
  - EPA reduction of minimum sentence.
  - Escape.
  - Parole board hearing.
  - Decision of parole board.
  - Release or discharge.
- Section 20.** Notice of escape detail including notice to prosecutor.

**Section 21.** Right to address parole board.

**Section 22.** Notice of final disposition.

**ARTICLE II** (Public Act 22, 1988. Applies to victims of crimes committed by juveniles. Takes effect June 1, 1988.)

**Section 31.** Definition of offense includes felonies, 2 year misdemeanors and the following misdemeanors:

- Assault and battery.
- Assault with infliction of serious injury.
- Breaking and entering or illegal entry.
- Enticing a child for immoral purposes.
- Discharge of a firearm intentionally aimed at a person.
- Discharge of an intentionally aimed firearm resulting in injury.
- Leaving the scene of a personal injury accident.
- Operating a vehicle while under the influence of or impaired by alcohol or a controlled substance, if the violation involves an accident resulting in injury to another's person.
- Violation of a local ordinance corresponding to any of these offenses.

**Section 32.** Within 24 hours law enforcement agency provides victim with following information:

- Emergency services.
- Victim compensation details.
- Victim's rights contact in prosecutor's office.
- Who to contact if no arrest within 6 months.

**Section 33.** Law enforcement:

- Returns victim's property promptly.
- Also allows for photos so evidence property can be returned.

**Section 34.** Investigating agency includes a separate, confidential statement listing any known victims.

**Section 35.** Law enforcement:

- Provides method for victim to know if defendant is held in detention prior to preliminary hearing.
- Prosecutor may move that juvenile be placed in detention if victim certifies threats or intimidation.

**Section 36.** Within 24 hours after a petition is filed, the probate court provides victim with plain English explanation of:

- Rights and procedures under this article.
- A summary of the processing of a juvenile offense case, including the possibility of its waiver to adult court.
- Victims compensation details.
- Threat and intimidation information and procedures for protection.
- Schedule of court proceedings and changes.

- Provided prosecutor is involved in case, consultation about disposition of case, including plea bargaining.
- Address requirement.

**Section 37.** Court to provide waiting area for victim separate from defendant or defense witnesses.

**Section 38.** Prosecutor or victim moves that victim or witness not be compelled to testify to protect identity.

**Section 39.** Right of victim to be present at trial.

**Section 40.** Victim protection from employer discipline for required court appearances.

**Section 41.** Court notifies victim of:

- Adjudicated offenses.
- Right to impact statement at disposition hearing.
- Time and place of disposition hearing.

If a predisposition report is written, writer notifies victim of:

- Right to impact statement to be used in report's preparation.
- Availability of report and statement to juvenile unless exempted by the court.
- Information for contacting writer of report.
- Details of impact statement.

**Section 42.** Right to have impact statement included in predisposition report if one is written.

**Section 43.** Right to impact statement at disposition. Court notifies victim of disposition within 14 days.

**Section 44.** Restitution:

- Property return or restoration.
- Cost of physical or psychological care.
- Loss of income.
- Funeral expenses.
- Services in lieu of money.
- Time limits.
- Restitution as a condition of probation or parole.
- Enforcement of restitution.
- Individuals and businesses are eligible.
- Responsibility of custodial parent.

**Section 45.** Court consideration in determining restitution.

**Section 46.** Prosecuting attorney notifies victim of:

- Filing of an appeal.
- Appeal procedures.
- Time and place of appeal hearing.

- Result of appeal.
- Juvenile's release on bail pending disposition of appeal.

**Section 47.** Profit from crime story to be placed in escrow 5 years. Proceeds to be used for:

- Restitution to victim.
- Satisfying civil judgment against defendant in favor of victim.
- Payment for room and board in jail or prison.
- Balance, if any, split between the state and defendant's family.

**Section 48.** Court (if juvenile is ward of court) or Department of Social Services (if juvenile is ward of state) notifies victim of:

- Juvenile's dismissal from jurisdiction.
- Juvenile's transfer to nonsecure facility in county in which victim resides.
- Escape.

**Section 49.** Certified copy of the order of an adjudicative hearing provided to victim.

**ARTICLE III.** (Public Act 21, 1988. Applies to victims of serious misdemeanors. Takes effect June 1, 1988.)

**Section 61.** Definition of serious misdemeanor includes:

- Assault and battery.
- Assault with infliction of serious injury.
- Breaking and entering or illegal entry.
- Enticing a child for immoral purposes.
- Discharge of a firearm intentionally aimed at a person.
- Discharge of an intentionally aimed firearm resulting in injury.
- Leaving the scene of a personal injury accident.
- Operating a vehicle while under the influence of or impaired by alcohol or a controlled substance, if the violation involves an accident resulting in injury to another's person.
- Violation of a local ordinance corresponding any of these offenses.

**Section 62.** Law enforcement officer includes victim information in separate statement.

**Section 63.** Within 24 hours law enforcement agency provides victim with following information:

- Emergency services.
- Victim compensation details.
- Victim's rights contact in prosecutor's office.
- Who to contact if no arrest within 6 months.

**Section 64.** Law enforcement:

- Returns victim's property promptly.
- Also allows for photos so evidence property can be returned.

- Section 65.** Law enforcement:
- Provides notice of availability of pretrial release.
  - Bond revocation procedure if victim certifies threats or intimidation.
- Section 66.** The court notifies the prosecutor of the plea within 48 hours of the arraignment. The prosecutor then within 48 hours notifies the victim of the following:
- Rights and procedures under the misdemeanor article.
  - Statement of court procedures, including pretrial conferences.
  - Victim's compensation details.
  - Threat and intimidation information and procedures for protection.
  - Schedule of court proceedings and changes.
  - If a plea of guilty or nolo contendere has been entered, consultation about disposition of case, including plea bargaining.
  - Notification of case dismissal within 48 hours.
  - Address requirements.
- Section 67.** Court to provide waiting area for victim separate from defendant or defense witnesses.
- Section 68.** Identity protection for victim.
- Section 69.** Speedy trial child witnesses.
- Section 70.** Upon request, victim confers with prosecutor prior to trial.
- Section 71.** Right of victim to be present at trial.
- Section 72.** Victim protection from employer discipline for required court appearances.
- Section 73.** Prosecutor notifies victim of:
- Conviction.
  - Crimes of conviction.
  - If one is prepared, right to presentence report impact statement and notice that statement may be available to defendant.
  - Right to make impact statement at sentencing.
  - Time and place of sentencing hearing.
  - Details of impact statement.
- Section 74.** Right to have impact statement included in presentence report if one is written.
- Section 75.** If no presentence report is prepared, court notifies prosecutor of date and time of sentencing at least 10 days before sentencing. Right to impact statement before judge at sentencing.

- Section 76.** Restitution:
- Applies to all misdemeanors.
  - Property return or restoration.
  - Cost of physical care.
  - Loss of income.
  - Services in lieu of money.
  - Time limits.
  - Individuals and businesses are eligible.
- Section 77.** Notification of final disposition.
- Section 78.** Appeal procedures. Prosecutor notifies victim of:
- Defendant's filing of an appeal.
  - Appeal process.
  - Time and place of appeal hearing.
  - Result of appeal.
  - Defendant's release on bail pending disposition of appeal.
- Section 79.** Notification of earliest release date.
- Section 80.** Victim information is confidential.
- Section 81.** Profit from crime story to be placed in escrow for 5 years. Proceeds to be used for:
- Restitution to victim.
  - Satisfying civil judgment against defendant in favor of victim.
  - Payment for room and board in jail or prison.
  - Balance, if any, split between the state and defendant's family.

## **PROCESSING A CRIMINAL CASE**

### **Circuit Court and Recorder's Court**

The Circuit Court has original jurisdiction in all civil cases involving more than \$10,000, all criminal cases where the offense involves a felony or a two-year misdemeanor and in some domestic relation cases, including divorce and paternity actions. In Detroit those criminal cases are assigned to the Recorder's Court.

The following is an example of the procedures often involved in processing a criminal case. Not every case will go to trial, so not all of the steps will be followed in every case. If you are a victim and have specific questions about the process in your case, contact the prosecuting attorney's office for more information.

#### **Warrant Request**

When a police officer has probable cause to believe a person has committed a crime, the police request the prosecutor to authorize a warrant for their arrest.

#### **Decision to Prosecute**

The Prosecutor determines whether a person should be charged with a crime, and if so, what the crime should be.

#### **Arraignment**

Once arrested and charged with a felony, the suspect appears in district court for arraignment. At arraignment, the defendant is given notice of the charges against him or her, and advised of their constitutional rights. The conditions and amount of bail are determined, and a date is set for a preliminary examination. You should be aware that most defendants are released on bail but you may check with phone number given.

#### **Preliminary Examination**

This is a contested hearing before the judge. The prosecutor presents witnesses to convince the district court judge that a crime was in fact committed and there is probable cause to believe the defendant has committed that crime. The defendant is represented and can cross-examine the witnesses and present evidence. If probable cause is established, the defendant is sent to circuit court for trial. A defendant can decide not to have a preliminary examination.

#### **Arraignment/Circuit Court**

After the case is sent to circuit court, the defendant is again arraigned and given formal notice of the charges against him or her. He or she is again advised of their constitutional rights, and asked to enter a plea to the charge.

#### **Pretrial Proceedings**

Many events can occur prior to trial. The court may hear motions to determine whether evidence will be admitted or suppressed at the defendant's trial, or whether there is some legal reason why the defendant should not be tried. In addition, the prosecutor and defense attorney will often meet to determine whether the defendant will plead guilty to the crime charged or some other offense.



## **Trial**

The defendant has a right to determine whether to be tried by the judge or the jury. During the trial, the judge or a jury will determine whether the defendant has committed a crime, and if so, what that crime is. A trial is an adversary proceeding whereby the prosecution must present evidence to establish the defendant's guilt beyond a reasonable doubt. The prosecutor must call all the witnesses to the crime. The defendant is not required to prove his or her innocence, or to present any evidence.

## **Sentencing**

If the defendant is found guilty of a crime, the judge will set a date for sentencing. The time between conviction and sentencing is used to prepare a presentence investigation report. This report is prepared by the probation officer, who works for the state Department of Corrections. It contains information about the crime, defendant's background, and a sentence recommendation. At the time of sentencing, the judge will consider the information in the report before determining the sentence. The judge will also consult the sentencing guidelines established by the Michigan Supreme Court as a reference for framing an appropriate sentence. Determination of the minimum sentence is the judge's sole responsibility, although some convictions carry a legally mandated minimum sentence. The judge may consider different alternatives, such as a fine, probation, community service, a sentence to jail or prison, or a combination. The judge may also order the defendant to make restitution to any victims who have suffered physical, financial, or emotional harm.

## **Juvenile Court**

The Probate Court's juvenile division is commonly known as Juvenile Court and handles cases of juveniles under the age of 17, unless they are waived to the adult court. Processing a juvenile offense is less formal and more flexible than corresponding procedures in Circuit, Recorder's or District Courts and some terms are different.

**Detention**—Facilities operated by the probate court or state where juveniles may be detained pending hearings or following disposition.

**Petition**—A complaint or written accusation that a juvenile has committed an offense which is filed with the Probate Court.

**Intake**—The probate court screening process and preparation of the case.

**Trial** (formerly called an adjudicatory hearing)—The point at which the court must find delinquency or neglect or dismiss the case.

**Disposition**—Equivalent to sentencing component in adult proceedings. The Court has a wide spectrum of options which includes returning the juvenile to his or her home, retaining court jurisdiction or assigning the juvenile to the jurisdiction of the state in the form of the Department of Social Services.

## **District Court**

The District Court has jurisdiction of all misdemeanors for which punishment does not exceed one year, as well as the arraignment, setting and acceptance of bail and conducting preliminary examinations in felony cases. The District Court also handles civil cases under \$10,000, garnishments, evictions, foreclosures and other

proceedings. District Court procedures are essentially like those used in Circuit and Recorder's Court with the following exceptions:

- A city ordinance may be prosecuted by a city attorney.
- Presentence investigations are not always prepared.

## **OTHER FINANCIAL ASSISTANCE FOR INJURED VICTIMS OF CRIMES**

Separate from restitution provided for in the Crime Victim's Rights Act, victims may be eligible for compensation from the state.

### **What is the Crime Victims Compensation Board?**

Section 18.351 of the Michigan Compiled Laws governs the Michigan Crime Victims Compensation Board. Under the Act persons who suffer personal injury as a direct result of a Michigan crime may be eligible for assistance. Personal injury means actual bodily harm, including pregnancy. In addition, a surviving spouse, parent, child, sibling or other dependent of a victim who dies as a result of a Michigan crime may be eligible for assistance.

Assistance may include compensation for certain kinds of out-of-pocket loss, loss of earnings and/or loss of support resulting from an injury which is the direct result of a Michigan crime.

### **Who May be Eligible for Compensation?**

- A crime victim who suffers personal physical injury as the direct result of a Michigan crime.
- An intervenor who suffers personal physical injury while going to the aid of a crime victim.
- A surviving spouse, parent, child, sibling or other dependent of a crime victim who dies as a direct result of a Michigan crime.

### **How Does a Person File a Claim?**

Obtain and fill out an application form. Forms are available from the Crime Victims Compensation Board or may be available at other places listed at the back of this booklet.

Under the Act your claim must be filed with the Board not later than 1 year after the occurrence of the crime. So, any time within 1 year of a crime, you can and should file a claim.

Prosecuting attorneys, sheriffs, police departments, state police posts, and other agencies may have forms and may help you, but they do not represent the Crime Victims Compensation Board, and they cannot waive any requirement of the law or rules of the Board.

### **Does a Person Need an Attorney to File a Claim?**

Except in unusual circumstances, you do not need an attorney, but you do have a right to hire one. In deciding whether to hire an attorney, you should think about the following facts.

The Board investigates each claim and is willing to deal directly with you. You can hire an attorney at any stage of the process. Any attorney's fee must be paid by you out of your award. Board rules do limit the amount of attorney fees which are payable, so you may want to discuss that with an attorney before you hire one.

#### **What Compensation May be Awarded?**

The actual amount of compensation, if any, depends upon the facts of each case. Do not try to decide for yourself whether you are eligible. If there is any doubt, file a claim and the Board will decide. Compensation to crime victims is limited in many ways; here are some of the limits:

- Maximum total dollars allowable—\$15,000.00.
- Maximum funeral expenses up to \$1,500.00.
- Not more than \$100.00 for each week of lost earnings, or in the case of a death, lost support.
- Losses resulting from an injury or death are awarded only if a person has no insurance and no other assistance available.
- If a person will not suffer serious financial hardship, then he or she must be denied an award even though a loss was suffered.

#### **What are Some Losses That are Not Covered?**

- Personal property loss.
- Pain and suffering.
- Injuries received while confined in a correctional facility.
- Victims of motor vehicle accidents with no available automobile insurance should file a claim with the Secretary of State, Assigned Claims Plan.

#### **To Receive an Award, What Other Basic Conditions Must be Satisfied?**

- The crime must be reported to the police within 48 hours, unless the Board finds there was good cause for any delay in making a police report.
- To recover an out-of-pocket loss, a person must show a loss of at least \$200.00 in medical expenses.
- To recover loss of earnings or loss of support, a person must have lost at least two continuous weeks of earnings or support.
- A person cannot be criminally responsible for the crime and cannot be an accomplice.
- Any person residing in the same household with the person who committed the crime, except unrelated, domestic employees, cannot receive loss of earnings or loss of support, and any out-of-pocket loss must be paid by the board directly to each medical care provider.
- The victim must be willing to cooperate with law enforcement agencies in the investigation of the crime and with the courts in the prosecution of a defendant.

#### **What Happens After a Claim is Filed?**

- The Board acknowledges the claimant's request for consideration and notifies the prosecuting attorney that a claim for compensation is pending.

- An investigation is conducted to verify the validity of the claim and the extent of any compensable loss. The claimant may be requested to provide documentation if the Board is otherwise unable to verify the claim.
- If dissatisfied, the claimant has 30 days in which to appeal the decision of the member to the full Board. An evidentiary hearing is provided to a claimant who requests one. The decision of the full Board becomes the final decision of the Board.
- If still dissatisfied, the claimant has 30 days to file a request for leave to appeal with the Court of Appeals.

**Coordination of Benefits**

- The Board is the payor of last resort.
- Payments from insurance or public funds for out-of-pocket expenses, lost earnings or support (except disability or death benefits paid to a peace officer) are primary resources and must be deducted prior to any award for compensation.
- The claimant must repay the State of Michigan out of any subsequent insurance settlement or court-ordered restitution covering a loss reimbursed by the Board.

**What About False Information?**

If a person falsely presents the facts and circumstances of a crime with the intent to defraud or cheat and causes an award to be made under the Act, that is a crime. So, a person can be prosecuted for putting false information in an application or causing other false information to be submitted to the Board.

**Other Considerations**

- The minimum loss requirement may be waived for persons retired by reason of age or disability.
- The minimum loss requirement may be waived for the expense of forensic medical exams for rape victims.

**Where to File a Claim**

Crime Victims Compensation Board  
P.O. Box 30026  
Lansing, Michigan 48909

**Where are Claim Forms Available?**

Crime Victims Compensation Board  
Prosecuting Attorneys  
State Police Posts

**Lansing:**

Phone: (517) 373-7373

**Detroit:**

Phone: (313) 256-9674

## VICTIM CONTACTS FOR MICHIGAN

### ALCONA

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**Victim Contact:** Carla Harvey  
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**Sheriff:** Edward Schroeder  
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### ALGER

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### ALLEGAN

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### BAY

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**Sheriff:** Paul Stiles  
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### BERRIEN

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**CALHOUN**

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**CASS**

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**Victim Contact:** Mr. Pat Featherston  
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**CHARLEVOIX**

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**CHEBOYGAN**

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**CHIPPEWA**

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**CLARE**

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**CLINTON**

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**CRAWFORD**

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**DELTA**

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**EATON**

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**EMMET**

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**GENESEE**

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**GLADWIN**

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**GOGEBIC**

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**GRAND TRAVERSE**

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**GRATIOT**

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**HILLSDALE**

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**Victim Contact:** Sheriff or Prosecutor  
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**HURON**

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**INGHAM**

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**IRON**

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**JACKSON**

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**KALKASKA**

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**KENT**

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**KEWEENAW**

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**LAKE**

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**LAPEER**

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**LEELANAU**

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**ST. CLAIR**

**Prosecutor:** Robert H. Cleland  
(313) 985-2400

**Victim Contact:** Elaine D. Hofmann  
(313) 985-2400

**Sheriff:** Dane Lane  
(313) 985-8115

**ST. JOSEPH**

**Prosecutor:** Robert P. Cares  
(616) 467-6361

**Victim Contact:** Carol Flowers  
(616) 467-6361

**Sheriff:** Matthew Lori  
(616) 467-9045

**SANILAC**

**Prosecutor:** James V. Young  
(313) 648-3402

**Victim Contact:** Aileen Selick  
(313) 648-3402

**Sheriff:** Birg Stricker  
(313) 648-2000

**SCHOOLCRAFT**

**Prosecutor:** Peter J. Hollenbeck  
(906) 341-6178

**Victim Contact:** Peter J. Hollenbeck  
(906) 341-6178

**Sheriff:** Gary Maddox  
(906) 341-2122

**SHIAWASSEE**

**Prosecutor:** Ward Clarkston  
(517) 743-2237

**Victim Contact:** Brenda Colwell  
(517) 743-2373

**Sheriff:** A. James LaJoye  
(517) 743-3411

**TUSCOLA**

**Prosecutor:** James Reed  
(517) 673-5999

**Victim Contact:** James Reed  
(517) 673-5999

**Sheriff:** Tom Kern  
(517) 673-8161

**VAN BUREN**

**Prosecutor:** Juris Kaps  
(616) 657-5581, ext. 236

**Victim Contact:** Tina Leary  
(616) 657-5581

**Sheriff:** H. Cal Rosema  
(616) 657-4247

**WASHTENAW**

**Prosecutor:** William F. Delhey  
(313) 994-2380

**Victim Contact:** Colleen E. Turek  
(313) 996-3026

**Sheriff:** Ron Schebil  
(313) 971-4978

**WAYNE**

**Prosecutor:** John D. O'Hair  
(313) 224-5777

**Victim Contact:** Lynda Baker  
(313) 224-5800

**Sheriff:** Robert Ficano  
(313) 224-2222

**WEXFORD**

**Prosecutor:** David A. Hogg  
(616) 779-9505

**Victim Contact:** David A. Hogg  
(616) 779-9505

**Sheriff:** Thomas McKeever  
(616) 779-9211

**MICHIGAN STATE POLICE POSTS**

POST NO.	POST	ADDRESS	ZIP CODE	AREA CODE	PHONE
74	Alpena	2160 S. State Ave., (US-235), Alpena	49707	517	354-4101
33	Bad Axe	675 S. VanDyke, Bad Axe	48413	517	269-6441
46	Battle Creek	610 W. Columbia Ave., Battle Creek	49015	616	968-6115
31	Bay City	405 N. Euclid Ave., Bay City	48706	517	684-2234
57	St. Joseph	4032 S. M-139, Bldg. 124, St. Joseph	49085	616	429-1111
42	Blissfield Team	408 E. Adrian St., Blissfield	49228	517	486-2131
37	Bridgeport	6280 Dixie Highway, Bridgeport	48722	517	777-3700
12	Brighton	4803 Old US-23, Brighton	48116	313	227-1051
76	Cadillac	1104 S. Mitchell St., Cadillac	49601	616	775-2433
90	Calumet	Rockland St., Calumet	49913	906	337-2211
39	Caro	120 Millwood St., Caro	48723	517	673-2156
72	Cheboygan	1206 S. Main St., Cheboygan	49721	616	627-9973
42	Clinton	322 E. Michigan Ave., Clinton	49236	517	456-4123
43	Coldwater	186 E. State St., Coldwater	49036	517	278-2373
29	Detroit	Executive Plaza Bldg., 1200 Sixth St., Detroit	48226	313	256-9636
32	East Tawas	410 N. US-23, East Tawas	48730	517	362-3434
28	Erie	120-75 Telegraph Rd., Erie	48133	313	848-2015
25	Flat Rock	15005 Telegraph Rd., Flat Rock	48134	313	782-2434
35	Flint	G3478 Corunna Rd., Flint	48504	313	732-1111
73	Gaylord	563 S. Otsego, Gaylord	49735	517	732-5141
85	Gladstone	922 Lake Shore Dr., Gladstone	49837	906	428-4411
36	Gladwin Team	701 E. Cedar, Gladwin	48624	517	426-4811
64	Grand Haven	1622 S. Beacon Blvd., Grand Haven	49417	616	842-2100
66	Hart	1100 Griswold St., Hart	49420	616	873-2171
56	Hastings Team	907 W. State St., Hastings	49058	616	948-8283
75	Houghton Lake	Rte. #1, Box 162, Houghton Lake	48629	517	422-5101
13	Ionia	3140 S. State Rd., Ionia	48846	616	527-3600
86	Iron Mountain	N. US-2, Iron Mountain	49801	906	774-2121
92	Iron River	897 Lalley Rd., Iron River	49935	906	265-9916
14	Ithaca	1876 N. State Rd., Ithaca	48847	517	875-4111
41	Jackson	3400 Cooper St., P.O. Box 630, Jackson	49204	517	782-9443

POST NO.	POST	ADDRESS	ZIP CODE	AREA CODE	PHONE
45	Jonesville	476 E. Chicago Rd., Jonesville	49250	517	849-9922
71	Kalkaska Team	Kalkaska Governmental Ctr., 605 N. Birch St., P.O. Box 127, Kalkaska	49646	616	258-2831
67	Lakeview	Howard City-Edmore Rd., Rte., #1, Lakeview	48850	517	352-8444
88	L'Anse	P.O. Box 87, L'Anse	49946	906	524-6161
11	Lansing	7119 N. Canal Rd., Lansing	48913	517	322-1911
38	Lapeer	977 S. Main St., Lapeer	48446	313	664-2905
77	Manistee	212 Arthur St., Manistee	49660	616	723-3535
84	Manistique	US-2, Manistique	49854	906	341-2101
63	Mt. Pleasant	1011 N. Mission St., Mt. Pleasant	48858	517	773-5951
91	Munising	Rte., #1, Box 445, Munising	49862	906	387-4550
81	Negaunee	180 US-41 East, Negaunee	49866	906	475-9922
65	Newaygo	360 Adams, Newaygo	49337	616	652-1661
24	New Baltimore	35555 23-Mile Rd., New Baltimore	48047	313	725-7503
82	Newberry	Rte. #1, Box 983, Newberry	49868	906	293-5151
57	New Buffalo Team	US-12, P.O. Box 190, New Buffalo	49117	616	469-1111
53	Niles	1001 S. 11th St., Niles	49120	616	683-4411
21	Northville	42145 W. Seven Mile Rd., Northville	48167	313	348-1505
15	Owosso	1907 W. Main St., Owosso	48867	517	723-6761
51	Paw Paw	108 W. Michigan Ave., Paw Paw	49079	616	657-6661
78	Petoskey	1200 M-119, Petoskey	49770	616	347-8101
27	Pontiac	1295 N. Telegraph Rd., Pontiac	48053	313	332-9132
62	Reed City	825 S. Chestnut St., Reed City	49677	616	832-2221
61	Rockford	345 Northland Dr., NE, Rockford	49341	616	866-4411
22	Romeo	290 N. Main St., Romeo	48065	313	752-3521
93	Sault Ste. Marie	3900 I-75 BR, Sault Ste. Marie	49783	906	632-2216
23	St. Clair	1419 Oakland Ave., St. Clair	48079	313	329-2233
83	St. Ignace	706 N. State St., St. Ignace	49781	906	643-8383
34	Sandusky	90 W. Sanilac, Sandusky	48471	313	648-2233
55	Saugatuck Team	6605 W. 138th Ave., P.O. Box 729, Saugatuck	49453	616	857-2800
55	South Haven	720 Lasgrange St., South Haven	49090	616	637-2125
16	State Capitol	504 W. Allegan St., Lansing	48913	517	373-2836

POST NO.	POST	ADDRESS	ZIP CODE	AREA CODE	PHONE
89	Stephenson	US-41, P.O. Box 443, Stephenson	49887	906	753-2275
71	Traverse City	218 W. 14th St., Traverse City	49684	616	946-4646
87	Wakefield	100 Sunday Lake St., Wakefield	49968	906	224-9691
56	Wayland	544 N. Main St., Wayland	49348	616	792-2213
36	West Branch	496 E. Houghton, West Branch	48661	517	345-0955
52	White Pigeon	15038 US-12, White Pigeon	49099	616	483-7611
26	Ypsilanti	1501 Whittaker Rd., Ypsilanti	48197	313	482-1211

For additional information, including victim assistance groups in your area, write:

Michigan Victim Alliance  
399 Federal Building  
Grand Rapids, MI 49503

Sexual Assault Information Network  
of Michigan, Inc.  
P.O. Box 20112  
Lansing, MI 48901

Michigan Sheriffs' Association  
1410 East Kalamazoo Street  
Lansing, MI 48912-2099

Save Our Sons & Daughters  
P.O. Box 32421  
Detroit, MI 48232

Prosecuting Attorneys Coordinating Council  
Victim/Witness Forum  
306 Townsend Street  
Lansing, MI 48913

"Mothers Against Drunk Driving"  
1-800-323-MADD

Michigan Self Help Clearing House  
109 West Michigan Avenue  
Suite 900  
Lansing, MI 48933  
1-800-752-5858

To obtain victim notification and information regarding prisoners,  
write to:

Michigan Department of Corrections  
Central Records Office  
P.O. Box 30003  
Lansing, MI 48909

