

# HOUSE BILL No. 5525

February 20, 1990, Introduced by Reps. Perry Bullard, Jondahl, Bennane, Gubow, Brown, London, Berman and DeMars and referred to the Committee on Judiciary.

A bill to amend the title and section 2 of Act No. 87 of the Public Acts of 1985, entitled as amended

"Crime victim's rights act,"

section 2 as amended by Act No. 21 of the Public Acts of 1988, being section 780.752 of the Michigan Compiled Laws; to add section 23a; and to repeal certain parts of the act on a specific date.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. The title and section 2 of Act No. 87 of the  
2 Public Acts of 1985, section 2 as amended by Act No. 21 of the  
3 Public Acts of 1988, being section 780.752 of the Michigan  
4 Compiled Laws, are amended and section 23a is added to read as  
5 follows:

## TITLE

1  
2 An act to establish the rights of victims of crime and juve-  
3 nile offenses; to provide for certain procedures; to establish  
4 certain immunities and duties; to limit convicted criminals from  
5 deriving profit under certain circumstances; to prohibit certain  
6 conduct of employers or employers' agents toward victims; ~~and~~  
7 to provide for penalties and remedies; AND TO REPEAL CERTAIN  
8 PARTS OF THIS ACT ON A SPECIFIC DATE.

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

10 (a) ~~"Crime"~~ EXCEPT AS PROVIDED IN SECTION 23A, "CRIME"  
11 means a violation of a penal law of this state for which the  
12 offender, upon conviction, may be punished by imprisonment for  
13 more than 1 year, or an offense expressly designated by law to be  
14 a felony.

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

17 (c) "Final disposition" means the ultimate termination of  
18 the criminal prosecution of a defendant including, but not  
19 limited to, dismissal, acquittal, or imposition of sentence by  
20 the court.

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

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

26 (f) "Prosecuting attorney" means the prosecuting attorney  
27 for a county, an assistant prosecuting attorney for a county, the

1 attorney general, the deputy attorney general, an assistant  
2 attorney general, and a special prosecuting attorney.

3 (g) "Victim", except for purposes of section 16, means any  
4 of the following:

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

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

10 (A) The spouse.

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

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

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

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

16 (iii) A parent, guardian, or custodian of a victim who is  
17 less than 18 years of age if the parent, guardian, or custodian  
18 so chooses.

19 (iv) A parent, guardian, or custodian of a victim who is so  
20 mentally incapacitated that he or she cannot meaningfully under-  
21 stand or participate in the legal process.

22 (2) If a victim as defined in subsection (1)(g)(i) is physi-  
23 cally unable to exercise the privileges and rights under this  
24 article, the victim may designate his or her spouse or a child 15  
25 years of age or older, parent, sibling, or grandparent of the  
26 victim to act in place of the victim during the duration of the  
27 physical disability. During the physical disability, notices to

1 be provided under this article to the victim shall continue to be  
2 sent only to the victim.

3 SEC. 23A. (1) IT IS THE DUTY OF A LAW ENFORCEMENT AGENCY TO  
4 INVESTIGATE EACH CRIME THAT IS COMMITTED WITHIN ITS  
5 JURISDICTION. IF A LAW ENFORCEMENT AGENCY FAILS OR REFUSES TO  
6 INVESTIGATE A CRIME COMMITTED WITHIN ITS JURISDICTION, THE VICTIM  
7 OF THAT CRIME MAY PETITION THE DISTRICT OR MUNICIPAL COURT IN THE  
8 JUDICIAL DISTRICT IN WHICH HE OR SHE RESIDES OR IN THE JUDICIAL  
9 DISTRICT IN WHICH THE CRIME WAS COMMITTED FOR AN ORDER COMPELLING  
10 THAT LAW ENFORCEMENT AGENCY TO INVESTIGATE THAT CRIME. FOR PUR-  
11 POSES OF THIS SUBSECTION, A LAW ENFORCEMENT AGENCY HAS FAILED OR  
12 REFUSED TO INVESTIGATE A CRIME COMMITTED WITHIN ITS JURISDICTION  
13 IF ALL OF THE FOLLOWING CIRCUMSTANCES EXIST:

14 (A) THE CRIME WAS REPORTED TO THAT LAW ENFORCEMENT AGENCY  
15 WITHIN 48 HOURS AFTER THE CRIME WAS COMMITTED OR WITHIN 48 HOURS  
16 AFTER THE CRIME WAS DISCOVERED BY THE PERSON REPORTING THAT  
17 CRIME.

18 (B) EITHER OF THE FOLLOWING CIRCUMSTANCES EXISTS:

19 (i) MORE THAN 24 HOURS HAVE ELAPSED SINCE THE CRIME WAS  
20 REPORTED AND THE LAW ENFORCEMENT AGENCY HAS NOT INVESTIGATED THAT  
21 CRIME.

22 (ii) THE LAW ENFORCEMENT AGENCY HAS INFORMED THE VICTIM OF  
23 THAT CRIME THAT IT WILL NOT INVESTIGATE THAT CRIME.

24 (2) THE DISTRICT COURT AND MUNICIPAL COURTS SHALL PROVIDE  
25 PETITION FORMS FREE OF CHARGE AND IN THE FOLLOWING FORMAT TO  
26 INDIVIDUALS WHO WISH TO FILE A PETITION UNDER SUBSECTION (1):

1 STATE OF MICHIGAN CASE NO. \_\_\_\_\_

2 \_\_\_\_ JUDICIAL DISTRICT

3 \_\_\_\_ MUNICIPAL COURT

4 PETITION FOR CRIMINAL INVESTIGATION

5 MY NAME IS \_\_\_\_\_  
6 (COMPLETE NAME)

7 I LIVE AT \_\_\_\_\_  
8 (COMPLETE ADDRESS)

9 MY TELEPHONE NUMBER IS (\_\_\_\_) \_\_\_\_\_  
10 (AREA CODE AND NUMBER)

11 I OR MY RELATIVE \_\_\_\_\_  
12 (YOUR NAME, OR NAME

13 \_\_\_\_\_  
14 AND RELATIONSHIP OF RELATIVE)

15 WAS A VICTIM OF THE CRIME OF (CHECK ONE)

16 \_\_\_\_ MURDER, \_\_\_\_ ATTEMPTED MURDER, \_\_\_\_ ASSAULT WITH

17 INTENT TO DO GREAT BODILY HARM LESS THAN MURDER,

18 \_\_\_\_ RAPE, \_\_\_\_ ASSAULT WITH INTENT TO COMMIT RAPE,

19 \_\_\_\_ BURNING OF A DWELLING HOUSE, \_\_\_\_ BREAKING AND

20 ENTERING, \_\_\_\_ ARMED ROBBERY, \_\_\_\_ UNARMED ROBBERY,

21 \_\_\_\_ ASSAULT WITH INTENT TO ROB AND STEAL WHILE

22 ARMED.

23 THE CRIME OCCURRED AT \_\_\_\_\_ O'CLOCK \_\_\_\_ (A.M.)

24 \_\_\_\_ (P.M.) ON \_\_\_\_\_, 19 \_\_\_\_  
25 (MONTH AND DAY) (YEAR)

26 AT THE FOLLOWING LOCATION:

27 \_\_\_\_\_  
28 (ADDRESS OR LOCATION WHERE CRIME OCCURRED)

1 THE CRIME WAS REPORTED TO

2 \_\_\_\_\_  
3 (NAME OF LAW ENFORCEMENT AGENCY)

4 AT \_\_\_\_\_ O'CLOCK \_\_\_\_ (A.M.) \_\_\_\_ (P.M.)

5 ON \_\_\_\_\_, 19\_\_\_\_.  
6 (MONTH AND DAY) (YEAR)

7 (CHECK ONE) \_\_\_\_ MORE THAN 24 HOURS HAVE PASSED  
8 SINCE THE CRIME WAS REPORTED TO THAT LAW  
9 ENFORCEMENT AGENCY AND THAT LAW ENFORCEMENT  
10 AGENCY HAS NOT INVESTIGATED THE CRIME. \_\_\_\_ THE  
11 LAW ENFORCEMENT AGENCY HAS INFORMED ME THAT IT  
12 WILL NOT INVESTIGATE THE CRIME.

13 I REQUEST THIS COURT TO ORDER THE LAW ENFORCE-  
14 MENT AGENCY TO INVESTIGATE THE CRIME.

15 \_\_\_\_\_  
16 (SIGNATURE) PETITIONER

17 \_\_\_\_\_  
18 (DATE)

19 (STOP! THE REMAINING PORTION OF THIS PETITION  
20 IS TO BE COMPLETED BY COURT PERSONNEL ONLY.)

21 \_\_\_\_\_  
22  
23 ORDER FOR CRIMINAL INVESTIGATION

24 TO: \_\_\_\_\_  
25 (NAME AND ADDRESS OF LAW ENFORCEMENT AGENCY)

26 GREETING:

27 YOU ARE ORDERED TO INVESTIGATE THIS CRIME IMME-  
28 DIATELY AND TO REPORT WITHIN 7 DAYS IN WRITING

BY

( DATE )

I \_\_\_\_\_ CERTIFY THAT I  
(NAME AND TITLE)

(NAME AND ADDRESS OF LAW ENFORCEMENT AGENCY)

ON \_\_\_\_\_, 19\_\_\_\_ BY (CHECK ONE)  
(MONTH AND DAY) (YEAR)

\_\_\_\_ HANDING IT PERSONALLY TO AN EMPLOYEE OF THAT  
LAW ENFORCEMENT AGENCY. \_\_\_\_ MAILING IT TO THAT  
LAW ENFORCEMENT AGENCY BY FIRST-CLASS MAIL.

SIGNATURE  
(DISTRICT OR MUNICIPAL COURT CLERK)

(DATE)

(3) THE DISTRICT COURT AND MUNICIPAL COURTS SHALL NOT CHARGE FEE TO INDIVIDUALS WHO FILE PETITIONS UNDER SUBSECTION (1).

(4) IF AN INDIVIDUAL PROPERLY FILES A PETITION UNDER SECTION (1), THE DISTRICT OR MUNICIPAL COURT CLERK SHALL ORDER LAW ENFORCEMENT AGENCY TO INVESTIGATE THE CRIME. THE

1 DISTRICT OR MUNICIPAL COURT CLERK SHALL PERSONALLY DELIVER A COPY  
2 OF THE ORDER TO AN EMPLOYEE OF THAT LAW ENFORCEMENT AGENCY OR  
3 SHALL MAIL A COPY OF THE ORDER TO THAT LAW ENFORCEMENT AGENCY BY  
4 FIRST-CLASS MAIL. A DISTRICT OR MUNICIPAL COURT CLERK WHO SERVES  
5 AN ORDER UNDER THIS SUBSECTION SHALL COMPLETE THE CERTIFICATE OF  
6 SERVICE FOR THE ORDER AND SHALL FILE THAT CERTIFICATE OF SERVICE  
7 WITH THE DISTRICT OR MUNICIPAL COURT.

8 (5) AS USED IN THIS SECTION:

9 (A) "CRIME" MEANS 1 OR MORE OF THE FOLLOWING:

10 (i) BURNING OF A DWELLING HOUSE IN VIOLATION OF SECTION 72  
11 OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF  
12 1931, BEING SECTION 750.72 OF THE MICHIGAN COMPILED LAWS.

13 (ii) ASSAULT WITH INTENT TO DO GREAT BODILY HARM LESS THAN  
14 MURDER IN VIOLATION OF SECTION 84 OF ACT NO. 328 OF THE PUBLIC  
15 ACTS OF 1931, BEING SECTION 750.84 OF THE MICHIGAN COMPILED  
16 LAWS.

17 (iii) ASSAULT WITH INTENT TO ROB AND STEAL WHILE ARMED IN  
18 VIOLATION OF SECTION 89 OF ACT NO. 328 OF THE PUBLIC ACTS OF  
19 1931, BEING SECTION 750.89 OF THE MICHIGAN COMPILED LAWS.

20 (iv) ATTEMPTED MURDER IN VIOLATION OF SECTION 91 OF ACT  
21 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.91 OF THE  
22 MICHIGAN COMPILED LAWS.

23 (v) BREAKING AND ENTERING IN VIOLATION OF SECTION 110 OF ACT  
24 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.110 OF THE  
25 MICHIGAN COMPILED LAWS.



1       (vi) FIRST DEGREE MURDER IN VIOLATION OF SECTION 316 OF ACT  
2 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.316 OF THE  
3 MICHIGAN COMPILED LAWS.

4       (vii) SECOND DEGREE MURDER IN VIOLATION OF SECTION 317 OF  
5 ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.317 OF  
6 THE MICHIGAN COMPILED LAWS.

7       (viii) CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE IN VIOLA-  
8 TION OF SECTION 520B OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931,  
9 BEING SECTION 750.520B OF THE MICHIGAN COMPILED LAWS.

10       (ix) CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE IN VIOLA-  
11 TION OF SECTION 520C OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931,  
12 BEING SECTION 750.520C OF THE MICHIGAN COMPILED LAWS.

13       (x) CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE IN VIOLATION  
14 OF SECTION 520D OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING  
15 SECTION 750.520D OF THE MICHIGAN COMPILED LAWS.

16       (xi) ASSAULT WITH INTENT TO COMMIT CRIMINAL SEXUAL CONDUCT  
17 IN VIOLATION OF SECTION 520G OF ACT NO. 328 OF THE PUBLIC ACTS OF  
18 1931, BEING SECTION 750.520G OF THE MICHIGAN COMPILED LAWS.

19       (xii) ARMED ROBBERY IN VIOLATION OF SECTION 529 OF ACT  
20 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.529 OF THE  
21 MICHIGAN COMPILED LAWS.

22       (xiii) UNARMED ROBBERY IN VIOLATION OF SECTION 530 OF ACT  
23 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.530 OF THE  
24 MICHIGAN COMPILED LAWS.

25       (B) "INVESTIGATE" MEANS ALL OF THE FOLLOWING:

26       (i) VISITING AND EXAMINING A CRIME SCENE.

1 (ii) INTERVIEWING ALL KNOWN WITNESSES TO A CRIME.

2 (iii) COLLECTING AND PROCESSING ALL PHYSICAL EVIDENCE OF A  
3 CRIME INCLUDING, BUT NOT LIMITED TO, FINGERPRINTS AND SERUM  
4 SAMPLES.

5 (C) "LAW ENFORCEMENT AGENCY" MEANS THE POLICE DEPARTMENT OF  
6 A CITY, VILLAGE, OR TOWNSHIP, OR THE COUNTY SHERIFF'S  
7 DEPARTMENT.

8 (6) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 1993.

9 Section 2. This amendatory act shall take effect January 1,  
10 1991.