

HOUSE BILL No. 5068

August 1, 1991, Introduced by Reps. Dobronski, Byrum, Barns, Stallworth, DeMars, Varga, DeBeaussaert, Harder, Kosteva, Weeks, Gire, Wallace, Johnson, Sikkema, Gilmer, Ostling, Dobb, Strand, Dalman, Shugars, London, Willis Bullard, Hoekman, Bobier, Robertson, Jaye, DeLange, Oxender, McNutt, Knight, Baade, Pitoniak, Clarke, Richard A. Young, Joe Young, Sr., Profit, Hunter and Murphy and referred to the Committee on Judiciary.

A bill to amend chapter XVI of Act No. 175 of the Public Acts of 1927, entitled as amended
"The code of criminal procedure,"
as amended, being sections 776.6 to 776.21 of the Michigan Compiled Laws, by adding sections 22, 23, and 24.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Chapter XVI of Act No. 175 of the Public Acts of
2 1927, as amended, being sections 776.6 to 776.21 of the Michigan
3 Compiled Laws, is amended by adding sections 22, 23, and 24 to
4 read as follows:

CHAPTER XVI

5
6 SEC. 22. (1) BEGINNING JULY 1, 1992, A VICTIM MAY CHOOSE A
7 PSEUDONYM PURSUANT TO THIS SECTION. THE PSEUDONYM SHALL BE USED
8 IN LIEU OF THE VICTIM'S NAME IN ALL PUBLIC FILES AND RECORDS

1 CONCERNING THE OFFENSE, INCLUDING POLICE SUMMARY REPORTS, PRESS
2 RELEASES, OR RECORDS OF JUDICIAL PROCEEDINGS.

3 (2) A VICTIM WHO CHOOSES TO USE A PSEUDONYM AS PROVIDED IN
4 THIS SECTION SHALL COMPLETE A PSEUDONYM FORM AND RETURN IT TO THE
5 LAW ENFORCEMENT AGENCY INVESTIGATING THE OFFENSE.

6 (3) IF A VICTIM COMPLETES AND RETURNS A PSEUDONYM FORM PUR-
7 SUANT TO THIS SECTION, ALL OF THE FOLLOWING APPLY:

8 (A) THE VICTIM, OR THE VICTIM'S REPRESENTATIVE IF ACTING ON
9 THE VICTIM'S BEHALF, SHALL NOT BE REQUIRED TO DISCLOSE THE
10 VICTIM'S NAME, ADDRESS, OR TELEPHONE NUMBER IN CONNECTION WITH
11 THE INVESTIGATION OR PROSECUTION OF THE OFFENSE.

12 (B) THE LAW ENFORCEMENT AGENCY RECEIVING THE VICTIM'S PSEUD-
13 ONYM FORM SHALL DO ALL OF THE FOLLOWING:

14 (i) WITHIN 24 HOURS, SEAL ALL ORIGINAL RECORDS IN THE
15 AGENCY'S POSSESSION CONTAINING THE VICTIM'S NAME AND SUBSTITUTE
16 FOR THEM COPIES OF THE RECORDS CONTAINING THE PSEUDONYM.

17 (ii) WITHIN 24 HOURS, NOTIFY THE PROSECUTING ATTORNEY OF THE
18 PSEUDONYM AND THAT THE VICTIM HAS CHOSEN TO BE DESIGNATED BY THAT
19 PSEUDONYM.

20 (iii) MAINTAIN THE PSEUDONYM FORM AND THE ORIGINAL RECORDS
21 DESCRIBED IN SUBPARAGRAPH (i) IN A MANNER THAT PROTECTS THE CON-
22 FIDENTIALITY OF THE INFORMATION ON THE FORM AND RECORDS. THE
23 PSEUDONYM FORM AND THE ORIGINAL RECORDS SHALL BE SEALED AND SHALL
24 NOT BE DISCLOSED EXCEPT AS PROVIDED IN THIS SECTION.

25 (C) THE PROSECUTING ATTORNEY SHALL ENSURE THAT THE VICTIM IS
26 DESIGNATED BY THE PSEUDONYM IN ALL LEGAL PROCEEDINGS CONCERNING
27 THE OFFENSE.

1 (4) EXCEPT AS PROVIDED IN SUBSECTION (5) OR (6), IF A VICTIM
2 CHOOSES TO USE A PSEUDONYM PURSUANT TO THIS SECTION, THE VICTIM'S
3 NAME, ADDRESS, TELEPHONE NUMBER, AND ANY OTHER INFORMATION LIKELY
4 TO IDENTIFY THE VICTIM ARE CONFIDENTIAL AND SHALL NOT BE DIS-
5 CLOSED BY A PUBLIC SERVANT TO ANY OTHER PERSON.

6 (5) SUBSECTION (4) DOES NOT APPLY WITH REGARD TO THE
7 DEFENDANT OR HIS OR HER ATTORNEY IN A CRIMINAL PROCEEDING UNDER
8 SECTIONS 520B TO 520G OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF
9 THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.520B TO 750.520G OF
10 THE MICHIGAN COMPILED LAWS, INVOLVING THE VICTIM.

11 (6) THE INFORMATION DESCRIBED IN SUBSECTION (4) MAY BE DIS-
12 CLOSED IN THE FOLLOWING CIRCUMSTANCES:

13 (A) THE COURT MAY ORDER DISCLOSURE OF A VICTIM'S NAME,
14 ADDRESS, OR TELEPHONE NUMBER IF THE COURT FINDS THAT THIS INFOR-
15 MATION IS ESSENTIAL IN THE TRIAL OF THE DEFENDANT FOR THE OFFENSE
16 OR THE VICTIM'S IDENTITY IS IN ISSUE.

17 (B) A PUBLIC SERVANT MAY DISCLOSE THE VICTIM'S NAME,
18 ADDRESS, OR TELEPHONE NUMBER TO A PERSON ASSISTING IN THE INVES-
19 TIGATION OR PROSECUTION OF THE OFFENSE.

20 (C) THE VICTIM MAY CONSENT IN WRITING TO DISCLOSURE OF THE
21 VICTIM'S NAME, ADDRESS, OR TELEPHONE NUMBER TO THE EXTENT NECES-
22 SARY FOR THE VICTIM TO RECEIVE INFORMATION OR NOTICE PERMITTED BY
23 STATUTE, INCLUDING ANY OF THE FOLLOWING:

24 (i) INFORMATION OR NOTICES DESCRIBED IN THE CRIME VICTIM'S
25 RIGHTS ACT, ACT NO. 87 OF THE PUBLIC ACTS OF 1985, BEING SECTIONS
26 780.751 TO 780.834 OF THE MICHIGAN COMPILED LAWS.

1 (ii) THE TEST RESULTS OF HIV TESTING OF THE DEFENDANT
2 PURSUANT TO SECTION 5129 OF THE PUBLIC HEALTH CODE, ACT NO. 368
3 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.5129 OF THE
4 MICHIGAN COMPILED LAWS.

5 (D) THE VICTIM MAY CONSENT IN WRITING TO ADDITIONAL SPECIFIC
6 LIMITED DISCLOSURE OF THE VICTIM'S NAME, ADDRESS, OR TELEPHONE
7 NUMBER.

8 (7) IF A VICTIM IS LESS THAN 16 YEARS OF AGE, THE VICTIM'S
9 REPRESENTATIVE MAY ACT ON THE VICTIM'S BEHALF WITH REGARD TO THE
10 PROVISIONS OF THIS SECTION.

11 (8) THE VICTIM'S NAME, ADDRESS, TELEPHONE NUMBER, AND ANY
12 OTHER INFORMATION LIKELY TO IDENTIFY THE VICTIM ARE EXEMPT FROM
13 DISCLOSURE PURSUANT TO SECTION 13 OF THE FREEDOM OF INFORMATION
14 ACT, ACT NO. 442 OF THE PUBLIC ACTS OF 1976, BEING SECTION 15.243
15 OF THE MICHIGAN COMPILED LAWS.

16 (9) THE PROVISIONS OF THIS SECTION AND SECTION 23 OF THIS
17 CHAPTER WITH REGARD TO A VICTIM'S NAME, ADDRESS, TELEPHONE
18 NUMBER, OR INFORMATION LIKELY TO IDENTIFY A VICTIM ARE IN ADDI-
19 TION TO ANY OTHER PROVISIONS OF LAW, INCLUDING SECTION 5A OF
20 CHAPTER VII.

21 (10) AS USED IN THIS SECTION AND SECTIONS 23 AND 24 OF THIS
22 CHAPTER:

23 (A) "PSEUDONYM" MEANS A SET OF INITIALS OR A FICTITIOUS NAME
24 CHOSEN BY A VICTIM OF A VIOLATION OF SECTIONS 520B TO 520G OF ACT
25 NO. 328 OF THE PUBLIC ACTS OF 1931.

26 (B) "PSEUDONYM FORM" MEANS THE FORM DEVELOPED PURSUANT TO
27 SECTION 24 OF THIS CHAPTER.

1 (C) "PUBLIC SERVANT" MEANS A PERSON SERVING THE STATE, AN
2 AGENCY OF THE STATE, AN INCORPORATED OR NONINCORPORATED PUBLIC
3 BODY WITHIN THE STATE, OR AN AGENCY OF AN INCORPORATED OR NONIN-
4 CORPORATED PUBLIC BODY WITHIN THE STATE.

5 (D) "VICTIM" MEANS THE VICTIM OF A VIOLATION OF SECTIONS
6 520B TO 520G OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931.

7 (E) "VICTIM'S NAME" MEANS THE VICTIM'S LEGAL NAME AND ANY
8 COMMONLY USED NAME.

9 (F) "VICTIM'S REPRESENTATIVE" MEANS THE PARENT, GUARDIAN, OR
10 OTHER PERSON IN LOCO-PARENTIS OF THE VICTIM IF THE VICTIM IS LESS
11 THAN 16 YEARS OF AGE.

12 SEC. 23. (1) EXCEPT AS PROVIDED IN SECTION 22 OF THIS CHAP-
13 TER, A PUBLIC SERVANT WHO KNOWINGLY OR INTENTIONALLY DISCLOSES
14 THE NAME, ADDRESS, TELEPHONE NUMBER, OR INFORMATION LIKELY TO
15 IDENTIFY A VICTIM WHO HAS CHOSEN TO USE A PSEUDONYM PURSUANT TO
16 SECTION 22 OF THIS CHAPTER IS GUILTY OF A MISDEMEANOR, PUNISHABLE
17 BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE
18 THAN \$100.00, OR BOTH.

19 (2) A PUBLIC SERVANT WHO FAILS TO PERFORM HIS OR HER DUTIES
20 UNDER SECTION 22(3)(B) OF THIS CHAPTER IS GUILTY OF A MISDEMEAN-
21 OR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A
22 FINE OF NOT MORE THAN \$100.00, OR BOTH.

23 SEC. 24. (1) BEFORE JULY 1, 1992, THE OFFICE OF CRIMINAL
24 JUSTICE OF THE DEPARTMENT OF MANAGEMENT AND BUDGET, IN CONSULTA-
25 TION WITH THE DEPARTMENT OF STATE POLICE, SHALL DEVELOP A PSEUD-
26 ONYM FORM SUITABLE FOR USE UNDER SECTION 22 OF THIS CHAPTER. THE
27 FORM SHALL PROVIDE FOR ALL OF THE FOLLOWING:

1 (A) A MEANS OF RECORDING THE VICTIM'S NAME, ADDRESS,
2 TELEPHONE NUMBER, AND CHOSEN PSEUDONYM, INSTRUCTIONS FOR USE OF
3 THE FORM, AND A BRIEF EXPLANATION OF THE OPERATION OF SECTIONS 22
4 AND 23 OF THIS CHAPTER.

5 (B) A MEANS FOR THE VICTIM TO CONSENT TO DISCLOSURE OF THE
6 VICTIM'S NAME, ADDRESS, AND TELEPHONE NUMBER PURSUANT TO SECTION
7 22(6) OF THIS CHAPTER.

8 (C) THE NOTICE REQUIRED BY SECTION 15C OF CHAPTER IV.

9 (D) A MEANS OF RECORDING OR PROVIDING ANY OTHER INFORMATION
10 NECESSARY TO IMPLEMENT THIS SECTION AND SECTIONS 22 AND 23 OF
11 THIS CHAPTER.

12 (2) THE OFFICE OF CRIMINAL JUSTICE SHALL DISTRIBUTE THE
13 PSEUDONYM FORM TO ALL LAW ENFORCEMENT AGENCIES OF THIS STATE
14 BEFORE JULY 1, 1992.

15 (3) THE PSEUDONYM FORM SHALL BE INCLUDED IN A SEXUAL ASSAULT
16 EVIDENCE KIT PURSUANT TO SECTION 21527 OF THE PUBLIC HEALTH CODE,
17 ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.21527
18 OF THE MICHIGAN COMPILED LAWS.

19 (4) A LAW ENFORCEMENT AGENCY INVESTIGATING A VIOLATION OF
20 SECTIONS 520B TO 520G OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF
21 THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.520B TO 750.520G OF
22 THE MICHIGAN COMPILED LAWS, SHALL IMMEDIATELY ADVISE THE VICTIM
23 OF THE VIOLATION OF THE OPPORTUNITY TO USE A PSEUDONYM UNDER
24 SECTION 22 OF THIS CHAPTER.