



HOUSE BILL No. 5974

November 30 1994, Introduced by Rep Willard and referred to the Committee on Judiciary

A bill to amend sections 5, 35, 41, 48, and 65 of Act No 87 of the Public Acts of 1985, entitled as amended

"Crime victim's rights act,"

sections 5, 35, 41, and 48 as amended by Act No 341 of the Public Acts of 1993 and section 65 as added by Act No 21 of the Public Acts of 1988 being sections 780 755, 780 785, 780 791, 780 798, and 780 815 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 5, 35, 41 48 and 65 of Act No 87 of
2 the Public Acts of 1985, sections 5, 35, 41, and 48 as amended by
3 Act No 341 of the Public Acts of 1993 and section 65 as added by
4 Act No 21 of the Public Acts of 1988, being sections 780 755,
5 780 785, 780 791, 780 798, and 780 815 of the Michigan Compiled
6 Laws, are amended to read as follows

1 Sec 5 (1) ~~Not later than 24 hours after the arraignment~~
2 ~~of the defendant for a crime, the law enforcement agency having~~
3 ~~responsibility for investigating the crime shall give to the~~
4 ~~victim notice of the availability of pretrial release for the~~
5 ~~defendant, the telephone number of the sheriff or juvenile facil-~~
6 ~~ity, and notice that the victim may contact the sheriff or juve-~~
7 ~~nile facility to determine whether the defendant has been~~
8 ~~released from custody~~ EXCEPT AS PROVIDED IN SUBSECTION (2) AND
9 SECTION 18A, UPON THE REQUEST OF THE VICTIM, THE LAW ENFORCEMENT
10 AGENCY HAVING RESPONSIBILITY FOR INVESTIGATING THE CRIME SHALL
11 INFORM THE VICTIM IF THE DEFENDANT IS RELEASED FROM CUSTODY AS
12 PROVIDED IN THIS SECTION

13 (2) IF THE DEFENDANT IS BEING HELD BY A LAW ENFORCEMENT
14 AGENCY OTHER THAN THE LAW ENFORCEMENT AGENCY HAVING RESPONSIBIL-
15 ITY FOR INVESTIGATING THE CRIME, THE LAW ENFORCEMENT AGENCY
16 HAVING RESPONSIBILITY FOR INVESTIGATING THE CRIME SHALL IMMEDI-
17 ATELY NOTIFY THAT OTHER AGENCY OF THE VICTIM S REQUEST THAT
18 OTHER AGENCY SHALL INFORM THE VICTIM IF THE DEFENDANT IS RELEASED
19 FROM CUSTODY AS PROVIDED IN THIS SECTION

20 (3) A LAW ENFORCEMENT AGENCY REQUIRED TO NOTIFY A VICTIM
21 UNDER THIS SECTION THAT A DEFENDANT HAS BEEN RELEASED FROM CUS-
22 TODY SHALL USE ANY MEANS REASONABLY CALCULATED TO GIVE THE VICTIM
23 NOTICE OF THAT RELEASE WITHIN 24 HOURS AFTER THE DEFENDANT IS
24 RELEASED

25 (4) ~~-(2)-~~ Based upon any credible evidence of acts or
26 threats of physical violence or intimidation by the defendant or
27 at the defendant's direction against the victim or the victim s

1 immediate family the prosecuting attorney may move that the bond
2 or personal recognizance of a defendant be revoked

3 Sec 35 (1) ~~If the juvenile has been placed in a juvenile~~
4 ~~facility not later than 48 hours after the preliminary hearing~~
5 ~~of that juvenile for a juvenile offense, the prosecuting attorney~~
6 ~~or, pursuant to an agreement under section 48a, the court shall~~
7 ~~give to the victim the telephone number of the juvenile facility~~
8 ~~and notice that the victim may contact the juvenile facility to~~
9 ~~determine whether the juvenile has been released from custody~~
10 UPON THE REQUEST OF THE VICTIM, THE PROSECUTING ATTORNEY OR, PUR-
11 SUANT TO AN AGREEMENT UNDER SECTION 48A THE COURT SHALL NOTIFY
12 THE JUVENILE FACILITY IN WHICH A JUVENILE IS PLACED THAT THE
13 VICTIM IS TO BE NOTIFIED IF THE JUVENILE IS RELEASED FROM
14 CUSTODY

15 (2) EXCEPT AS PROVIDED IN SECTION 46, THE JUVENILE FACILITY
16 SHALL PURSUANT TO SUBSECTION (1) NOTIFY THE VICTIM IF THE JUVE-
17 NILE IS RELEASED FROM CUSTODY AS PROVIDED IN THIS SECTION

18 (3) A JUVENILE FACILITY REQUIRED TO NOTIFY A VICTIM UNDER
19 THIS SECTION THAT A JUVENILE HAS BEEN RELEASED FROM CUSTODY SHALL
20 USE ANY MEANS REASONABLY CALCULATED TO GIVE THE VICTIM NOTICE OF
21 THAT RELEASE WITHIN 24 HOURS AFTER THE JUVENILE IS RELEASED

22 (4) ~~-(2)-~~ Based upon any credible evidence of acts or
23 threats of physical violence or intimidation by the juvenile or
24 at the juvenile's direction against the victim or the victim s
25 immediate family the prosecuting attorney may move that the
26 juvenile be detained in a juvenile facility

1 Sec 41 (1) The prosecuting attorney or, pursuant to an
2 agreement under section 48a the court upon and in accordance
3 with the request of the victim, shall give to the victim notice
4 of ~~both~~ ALL of the following

5 (a) The offenses for which the juvenile was adjudicated, AND
6 THE POSSIBLE DISPOSITIONS FOR THOSE OFFENSES

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

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

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

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

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

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

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

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

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

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

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

6 Sec 48 (1) Upon written request, the court or the depart-
7 ment of social services shall INFORM THE VICTIM OF THE JUVENILE
8 FACILITY IN WHICH THE JUVENILE IS PLACED, AND SHALL make a good
9 faith effort to notify the victim before either of the following
10 occurs

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

13 (b) The juvenile is transferred ~~from a secure juvenile~~
14 ~~facility to a nonsecure juvenile~~ TO ANOTHER facility

15 (2) If the court or department of social services is not
16 successful in notifying the victim before an event described in
17 subsection (1)(a) or (b) occurs the court or department of
18 social services shall notify the victim as soon as possible after
19 the occurrence of the event described in subsection (1)(a) or
20 (b)

21 (3) Upon the victim's written request, the department of
22 social services or the court shall give to the victim notice of a
23 juvenile's escape from a secure detention or treatment facility
24 A victim who requests notice of an escape shall be given immedi-
25 ate notice of the escape by any means reasonably calculated to
26 give prompt actual notice

1 (4) Upon the victim's request the prosecuting attorney
2 shall give the victim notice of a review hearing conducted
3 pursuant to section 18 of chapter XIIA of Act No 288 of the
4 Public Acts of 1939, being section 712A 18 of the Michigan
5 Compiled Laws The victim has the right to make a statement at
6 the hearing, submit a written statement for use at the hearing,
7 or both

8 Sec 65 (1) ~~Not later than 72 hours after the arrest of~~
9 ~~the defendant for a serious misdemeanor, the law enforcement~~
10 ~~agency having responsibility for investigating the serious misde-~~
11 ~~meanor shall give to the victim notice of the availability of~~
12 ~~pretrial release for the defendant, the phone number of the sher-~~
13 ~~iff, and notice that the victim may contact the sheriff to deter-~~
14 ~~mine whether the defendant has been released from custody~~
15 EXCEPT AS PROVIDED IN SUBSECTION (2) AND SECTION 78, UPON THE
16 REQUEST OF THE VICTIM, THE LAW ENFORCEMENT AGENCY HAVING RESPON-
17 SIBILITY FOR INVESTIGATING THE SERIOUS MISDEMEANOR SHALL INFORM
18 THE VICTIM IF THE DEFENDANT IS RELEASED FROM CUSTODY AS PROVIDED
19 IN THIS SECTION

20 (2) IF THE DEFENDANT IS BEING HELD BY A LAW ENFORCEMENT
21 AGENCY OTHER THAN THE LAW ENFORCEMENT AGENCY HAVING RESPONSIBIL-
22 ITY FOR INVESTIGATING THE SERIOUS MISDEMEANOR, THE LAW ENFORCE-
23 MENT AGENCY HAVING RESPONSIBILITY FOR INVESTIGATING THE SERIOUS
24 MISDEMEANOR SHALL IMMEDIATELY NOTIFY THAT OTHER AGENCY OF THE
25 VICTIM'S REQUEST THAT OTHER AGENCY SHALL INFORM THE VICTIM IF
26 THE DEFENDANT IS RELEASED FROM CUSTODY AS PROVIDED IN THIS
27 SECTION

1 (3) A LAW ENFORCEMENT AGENCY REQUIRED TO NOTIFY A VICTIM
2 UNDER THIS SECTION THAT A DEFENDANT HAS BEEN RELEASED FROM CUS-
3 TODAY SHALL USE ANY MEANS REASONABLY CALCULATED TO GIVE THE VICTIM
4 NOTICE OF THAT RELEASE WITHIN 24 HOURS AFTER THE DEFENDANT IS
5 RELEASED

6 (4) ~~-(2)-~~ If the victim submits an affidavit asserting acts
7 or threats of physical violence or intimidation by the defendant
8 or at the defendant s direction against the victim or the
9 victim s immediate family, the prosecuting attorney, based on the
10 victim's affidavit, may move that the bond or personal recogni-
11 zance of a defendant be revoked