

Act No. 82
Public Acts of 1996
Approved by the Governor
February 25, 1996
Filed with the Secretary of State
February 26, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Rep. Wetters

ENROLLED HOUSE BILL No. 5334

AN ACT to amend sections 31 and 61 of Act No. 87 of the Public Acts of 1985, entitled as amended "An act to establish the rights of victims of crime and juvenile offenses; to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers' agents toward victims; and to provide for penalties and remedies," as amended by Act No. 341 of the Public Acts of 1993, being sections 780.781 and 780.811 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 31 and 61 of Act No. 87 of the Public Acts of 1985, as amended by Act No. 341 of the Public Acts of 1993, being sections 780.781 and 780.811 of the Michigan Compiled Laws, are amended to read as follows:

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

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

(b) "Juvenile" means a child alleged or found to be 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) "Juvenile facility" means a county facility, an institution operated as an agency of the county or the juvenile division of the probate court, or a state institution or agency described in the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being sections 803.301 to 803.309 of the Michigan Compiled Laws, to which a juvenile has been committed or in which a juvenile is detained.

(d) "Offense" means 1 or more of the following:

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

(ii) A violation of section 81, 81a, 115, 136b(5), 145a, 234, 235, 335a, or 411h of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81, 750.81a, 750.115, 750.136b, 750.145a, 750.234, 750.235, 750.335a, and 750.411h of the Michigan Compiled Laws.

(iii) 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, or a violation of section 625 of Act No. 300 of the Public Acts of 1949, being section 257.625 of the Michigan Compiled Laws, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to another individual.

(iv) Selling or furnishing alcoholic liquor to an individual less than 21 years of age in violation of section 33 of the Michigan liquor control act, Act No. 8 of the Extra Session of the Public Acts of 1933, being section 436.33 of the Michigan Compiled Laws, if the violation results in physical injury or death to any individual.

(v) A violation of section 80176 of part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.80176 of the Michigan Compiled Laws, operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to any individual.

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

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

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

(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, or in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(g) "Victim", except as otherwise defined in this article, 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 individuals other than the juvenile offender if the victim is deceased:

(A) The spouse of the deceased victim.

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

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

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

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

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

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

(iv) A parent, guardian, or custodian of a victim who is mentally or emotionally unable to participate in the legal process.

(2) If a victim as defined in subsection (1)(g)(i) is physically or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 18 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 or emotional disability. The victim shall provide the prosecuting attorney with the name of the person who is to act in place of the victim. During the physical or emotional disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

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

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

(i) A violation of section 81 of the Michigan penal code, 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 136b(5) of Act No. 328 of the Public Acts of 1931, being section 750.136b of the Michigan Compiled Laws, child abuse in the fourth degree.

(v) 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.

(vi) 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.

(vii) 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.

(viii) A violation of section 335a of Act No. 328 of the Public Acts of 1931, being section 750.335a of the Michigan Compiled Laws, indecent exposure.

(ix) 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.

(x) A violation of section 625 of Act No. 300 of the Public Acts of 1949, being section 257.625 of the Michigan Compiled Laws, operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to another individual.

(xi) Selling or furnishing alcoholic liquor to an individual less than 21 years of age in violation of section 33 of the Michigan liquor control act, Act No. 8 of the Extra Session of the Public Acts of 1933, being section 436.33 of the Michigan Compiled Laws, if the violation results in physical injury or death to any individual.

(xii) A violation of section 411h of Act No. 328 of the Public Acts of 1931, being section 750.411h of the Michigan Compiled Laws, stalking.

(xiii) A violation of section 80176 of part 801 (marine safety) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.80176 of the Michigan Compiled Laws, operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to any individual.

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

(xv) A violation charged as a crime or serious misdemeanor but subsequently reduced to or pleaded to as a misdemeanor. As used in this subparagraph, "crime" means that term as defined in section 2.

(b) "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, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(g) "Victim", except as otherwise defined in this article, 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 individuals other than the defendant if the victim is deceased:

(A) The spouse of the deceased victim.

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

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

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

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

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

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age 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 or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 18 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 or emotional disability. The victim shall provide the prosecuting attorney with the name of the person who is to act in place of the victim. During the physical or emotional disability, notices to be provided under this article to the victim 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 section 2 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.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.