



HOUSE BILL No. 5334

October 25, 1995, Introduced by Rep. Wetters and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend sections 31 and 61 of Act No. 87 of the Public Acts of 1985, entitled as amended "Crime victim's rights act," 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:

1 Section 1. Sections 31 and 61 of Act No. 87 of the Public
2 Acts of 1985, as amended by Act No. 341 of the Public Acts of
3 1993, being sections 780.781 and 780.811 of the Michigan Compiled
4 Laws, are amended to read as follows:

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

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

8 (b) "Juvenile" means a child alleged or found to be within
9 the jurisdiction of the juvenile division of the probate court

1 pursuant to section 2(a)(1) of chapter XIIA of Act No. 288 of the
2 Public Acts of 1939, being section 712A.2 of the Michigan
3 Compiled Laws, for an offense.

4 (c) "Juvenile facility" means a county facility, an institu-
5 tion operated as an agency of the county or the juvenile division
6 of the probate court, or a state institution or agency described
7 in the youth rehabilitation services act, Act No. 150 of the
8 Public Acts of 1974, being sections 803.301 to 803.309 of the
9 Michigan Compiled Laws, to which a juvenile has been committed or
10 in which a juvenile is detained.

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

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

16 (ii) A violation of section 81, 81a, 115, 136b(5), 145a,
17 234, 235, 335a, or 411h of the Michigan penal code, Act No. 328
18 of the Public Acts of 1931, being sections 750.81, 750.81a,
19 750.115, 750.136b, 750.145a, 750.234, 750.235, 750.335a, and
20 750.411h of the Michigan Compiled Laws.

21 (iii) A violation of section 617a of the Michigan vehicle
22 code, Act No. 300 of the Public Acts of 1949, being section
23 257.617a of the Michigan Compiled Laws, or a violation of section
24 625 of ~~the Michigan vehicle code,~~ Act No. 300 of the Public
25 Acts of 1949, being section 257.625 of the Michigan Compiled
26 Laws, if the violation involves an accident resulting in damage

1 to another individual's property or physical injury or death to
2 another individual.

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

9 (v) A violation of section ~~171 of the marine safety act,~~
10 ~~Act No. 303 of the Public Acts of 1967, being section 281.1171~~
11 80176 OF PART 801 (MARINE SAFETY) OF THE NATURAL RESOURCES AND
12 ENVIRONMENTAL PROTECTION ACT, ACT NO. 451 OF THE PUBLIC ACTS OF
13 1994, BEING SECTION 324.80176 of the Michigan Compiled Laws,
14 operating a vessel while under the influence of or impaired by
15 intoxicating liquor or a controlled substance, or with an unlaw-
16 ful blood alcohol content, if the violation involves an accident
17 resulting in damage to another individual's property or physical
18 injury or death to any individual.

19 (vi) A violation of a local ordinance substantially corre-
20 sponding to a violation enumerated in subparagraphs (i) to (v).

21 (vii) A violation described in subparagraphs (i) to (vi)
22 that is subsequently reduced to a violation not included in sub-
23 paragraphs (i) to (vi).

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

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, a special prosecuting attorney, or in connec-
3 tion with the prosecution of an ordinance violation, an attorney
4 for the political subdivision that enacted the ordinance upon
5 which the violation is based.

6 (g) "Victim", except as otherwise defined in this article,
7 means any of the following:

8 (i) A person who suffers direct or threatened physical,
9 financial, or emotional harm as a result of the commission of an
10 offense, except as provided in subparagraph (ii), (iii), or
11 (iv).

12 (ii) The following individuals other than the juvenile
13 offender if the victim is deceased:

14 (A) The spouse of the deceased victim.

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

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

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

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

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

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

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

7 (2) If a victim as defined in subsection (1)(g)(i) is physi-
 8 cally or emotionally unable to exercise the privileges and rights
 9 under this article, the victim may designate his or her spouse or
 10 a child 18 years of age or older, parent, sibling, or grandparent
 11 of the victim to act in place of the victim during the duration
 12 of the physical or emotional disability. The victim shall pro-
 13 vide the prosecuting attorney with the name of the person who is
 14 to act in place of the victim. During the physical or emotional
 15 disability, notices to be provided under this article to the
 16 victim shall continue to be sent only to the victim.

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

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

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

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

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

1 (iv) A violation of section 136b(5) of ~~the Michigan penal~~
2 ~~code,~~ Act No. 328 of the Public Acts of 1931, being section
3 ~~750.135b~~ 750.136B of the Michigan Compiled Laws, child abuse in
4 the fourth degree.

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

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

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

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

18 (ix) A violation of section 617a of the Michigan vehicle
19 code, Act No. 300 of the Public Acts of 1949, being section
20 257.617a of the Michigan Compiled Laws, leaving the scene of a
21 personal injury accident.

22 (x) A violation of section 625 of Act No. 300 of the Public
23 Acts of 1949, being section 257.625 of the Michigan Compiled
24 Laws, operating a vehicle while under the influence of or
25 impaired by intoxicating liquor or a controlled substance, or
26 with an unlawful blood alcohol content, if the violation involves

1 an accident resulting in damage to another individual's property
2 or physical injury or death to another individual.

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

9 (xii) A violation of section 411h of ~~the Michigan penal~~
10 ~~code,~~ Act No. 328 of the Public Acts of 1931, being section
11 750.411h of the Michigan Compiled Laws, stalking.

12 (xiii) A violation of section ~~+17+ of the marine safety act,~~
13 ~~Act No. 303 of the Public Acts of 1967, being section 281.+17+~~
14 80176 OF PART 801 (MARINE SAFETY) OF THE NATURAL RESOURCES AND
15 ENVIRONMENTAL PROTECTION ACT, ACT NO. 451 OF THE PUBLIC ACTS OF
16 1994, BEING SECTION 324.80176 of the Michigan Compiled Laws,
17 operating a vessel while under the influence of or impaired by
18 intoxicating liquor or a controlled substance, or with an unlaw-
19 ful blood alcohol content, if the violation involves an accident
20 resulting in damage to another individual's property or physical
21 injury or death to any individual.

22 (xiv) A violation of a local ordinance substantially corre-
23 sponding to a violation enumerated in subparagraphs (i) to
24 (xiii).

25 (xv) A violation charged as a crime or serious misdemeanor
26 but subsequently reduced to or pleaded to as a misdemeanor. As

1 used in this subparagraph, "crime" means that term as defined in
2 section 2.

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

5 (c) "Final disposition" means the ultimate termination of
6 the criminal prosecution of a defendant including, but not
7 limited to, dismissal, acquittal, or imposition of a sentence by
8 the court.

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

11 (e) "Prisoner" means a person who has been convicted and
12 sentenced to imprisonment for having committed a serious misde-
13 meanor against a victim.

14 (f) "Prosecuting attorney" means the prosecuting attorney
15 for a county, an assistant prosecuting attorney for a county, the
16 attorney general, the deputy attorney general, an assistant
17 attorney general, a special prosecuting attorney, or, in connec-
18 tion with the prosecution of an ordinance violation, an attorney
19 for the political subdivision that enacted the ordinance upon
20 which the violation is based.

21 ~~{g}~~ "Victim", ~~except as~~ otherwise defined in this article,
22 means any of the following:

23 (i) An individual who suffers direct or threatened physical,
24 financial, or emotional harm as a result of the commission of a
25 serious misdemeanor, except as provided in subparagraph (ii),
26 (iii), or (iv).

1 (ii) The following individuals other than the defendant if
2 the victim is deceased:

3 (A) The spouse of the deceased victim.

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

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

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

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

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

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

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

21 (2) If a victim as defined in subsection (1)(g)(i) is physi-
22 cally or emotionally unable to exercise the privileges and rights
23 under this article, the victim may designate his or her spouse or
24 a child 18 years of age or older, parent, sibling, or grandparent
25 of the victim to act in place of the victim during the duration
26 of the physical or emotional disability. The victim **shall**
27 provide the prosecuting attorney with the name of **the person who**

1 is to act in place of the victim. During the physical or
2 emotional disability, notices to be provided under this article
3 to the victim shall continue to be sent only to the victim.

4 (3) An individual who is charged with a serious misdemeanor
5 or a crime as defined in section 2 arising out of the same trans-
6 action from which the charge against the defendant arose is not
7 eligible to exercise the privileges and rights established for
8 victims under this article.