

HOUSE BILL No. 6255

November 5, 1998, Introduced by Rep. Varga and referred to the Committee on Regulatory Affairs.

A bill to amend 1985 PA 87, entitled
"Crime victim's rights act,"
by amending sections 31 and 61 (MCL 780.781 and 780.811), as
amended by 1996 PA 82.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 31. (1) As used in this article:
- 2 (a) "Court" means the ~~juvenile~~ FAMILY division of ~~the~~
3 ~~probate~~ CIRCUIT court.
- 4 (b) "Juvenile" means a child alleged or found to be within
5 the jurisdiction of the ~~juvenile division of the probate~~ court
6 pursuant to section 2(a)(1) of chapter XIIIA of ~~Act No. 288 of~~
7 ~~the Public Acts of 1939, being section 712A.2 of the Michigan~~
8 ~~Compiled Laws~~ 1939 PA 288, MCL 712A.2, for an offense.
- 9 (c) "Juvenile facility" means a county facility, an
10 institution operated as an agency of the county or the juvenile

1 division of the probate court, or a state institution or agency
2 described in the youth rehabilitation services act, ~~Act No. 150~~
3 ~~of the Public Acts of 1974, being sections 803.301 to 803.309 of~~
4 ~~the Michigan Compiled Laws~~ 1974 PA 150, MCL 803.301 TO 803.309,
5 to which a juvenile has been committed or in which a juvenile is
6 detained.

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

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

12 (ii) A violation of section 81, 81a, 115, 136b(5), 145a,
13 234, 235, 335a, or 411h of the Michigan penal code, ~~Act No. 328~~
14 ~~of the Public Acts of 1931, being sections 750.81, 750.81a,~~
15 ~~750.115, 750.136b, 750.145a, 750.234, 750.235, 750.335a, and~~
16 ~~750.411h of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.81,
17 750.81A, 750.115, 750.136B, 750.145A, 750.234, 750.235, 750.335A,
18 AND 750.411H.

19 (iii) A violation of section 617a of the Michigan vehicle
20 code, ~~Act No. 300 of the Public Acts of 1949, being section~~
21 ~~257.617a of the Michigan Compiled Laws~~ 1949 PA 300, MCL
22 257.617A, or a violation of section 625 of ~~Act No. 300 of the~~
23 ~~Public Acts of 1949, being section 257.625 of the Michigan~~
24 ~~Compiled Laws~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
25 257.625, if the violation involves an accident resulting in
26 damage to another individual's property or physical injury or
27 death to another individual.

1 (iv) Selling or furnishing alcoholic liquor to an individual
2 less than 21 years of age in violation of section ~~33 of the~~
3 ~~Michigan liquor control act, Act No. 8 of the Extra Session of~~
4 ~~the Public Acts of 1933, being section 436.33 of the Michigan~~
5 ~~Compiled Laws~~ 701 OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998,
6 1998 PA 58, MCL 436.1701, if the violation results in physical
7 injury or death to any individual.

8 (v) A violation of section 80176 ~~of part 801 (marine~~
9 ~~safety)~~ of the natural resources and environmental protection
10 act, ~~Act No. 451 of the Public Acts of 1994, being section~~
11 ~~324.80176 of the Michigan Compiled Laws~~ 1994 PA 451, MCL
12 324.80176, operating a vessel while under the influence of or
13 impaired by intoxicating liquor or a controlled substance, or
14 with an unlawful blood alcohol content, if the violation involves
15 an accident resulting in damage to another individual's property
16 or physical injury or death to any individual.

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

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

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

24 (f) "Prosecuting attorney" means the prosecuting attorney
25 for a county, an assistant prosecuting attorney for a county, the
26 attorney general, the deputy attorney general, an assistant
27 attorney general, a special prosecuting attorney, or in

1 connection with the prosecution of an ordinance violation, an
2 attorney for the political subdivision that enacted the ordinance
3 upon which the violation is based.

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

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

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

12 (A) The spouse of the deceased victim.

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

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

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

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

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

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

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

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

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

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

16 (i) A violation of section 81 of the Michigan penal code,
17 ~~Act No. 328 of the Public Acts of 1931, being section 750.81 of~~
18 ~~the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.81, assault and
19 battery.

20 (ii) A violation of section 81a of ~~Act No. 328 of the~~
21 ~~Public Acts of 1931, being section 750.81a of the Michigan~~
22 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81A,
23 assault; infliction of serious injury.

24 (iii) A violation of section 115 of ~~Act No. 328 of the~~
25 ~~Public Acts of 1931, being section 750.115 of the Michigan~~
26 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.115,
27 breaking and entering or illegal entry.

1 (iv) A violation of section 136b(5) of ~~Act No. 328 of the~~
2 ~~Public Acts of 1931, being section 750.136b of the Michigan~~
3 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
4 750.136B, child abuse in the fourth degree.

5 (v) A violation of section 145a of ~~Act No. 328 of the~~
6 ~~Public Acts of 1931, being section 750.145a of the Michigan~~
7 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
8 750.145A, enticing a child for immoral purposes.

9 (vi) A violation of section 234 of ~~Act No. 328 of the~~
10 ~~Public Acts of 1931, being section 750.234 of the Michigan~~
11 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.234,
12 discharge of a firearm intentionally aimed at a person.

13 (vii) A violation of section 235 of ~~Act No. 328 of the~~
14 ~~Public Acts of 1931, being section 750.235 of the Michigan~~
15 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.235,
16 discharge of an intentionally aimed firearm resulting in injury.

17 (viii) A violation of section 335a of ~~Act No. 328 of the~~
18 ~~Public Acts of 1931, being section 750.335a of the Michigan~~
19 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
20 750.335A, indecent exposure.

21 (ix) 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~~ 1949 PA 300, MCL
24 257.617A, leaving the scene of a personal injury accident.

25 (x) A violation of section 625 of ~~Act No. 300 of the Public~~
26 ~~Acts of 1949, being section 257.625 of the Michigan Compiled~~
27 ~~Laws~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.625,

1 operating a vehicle while under the influence of or impaired by
2 intoxicating liquor or a controlled substance, or with an unlaw-
3 ful blood alcohol content, if the violation involves an accident
4 resulting in damage to another individual's property or physical
5 injury or death to another individual.

6 (xi) Selling or furnishing alcoholic liquor to an individual
7 less than 21 years of age in violation of section ~~33 of the~~
8 ~~Michigan liquor control act, Act No. 8 of the Extra Session of~~
9 ~~the Public Acts of 1933, being section 436.33 of the Michigan~~
10 ~~Compiled Laws~~ 701 OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998,
11 1998 PA 58, MCL 436.1701, if the violation results in physical
12 injury or death to any individual.

13 (xii) A violation of section 411h of ~~Act No. 328 of the~~
14 ~~Public Acts of 1931, being section 750.411h of the Michigan~~
15 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
16 750.411H, stalking.

17 (xiii) A violation of section 80176 of ~~part 801 (marine~~
18 ~~safety) of~~ the natural resources and environmental protection
19 act, ~~Act No. 451 of the Public Acts of 1994, being section~~
20 ~~324.80176 of the Michigan Compiled Laws~~ 1994 PA 451, MCL
21 324.80176, operating a vessel while under the influence of or
22 impaired by intoxicating liquor or a controlled substance, or
23 with an unlawful blood alcohol content, if the violation involves
24 an accident resulting in damage to another individual's property
25 or physical injury or death to any individual.

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

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

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

10 (c) "Final disposition" means the ultimate termination of
11 the criminal prosecution of a defendant including, but not
12 limited to, dismissal, acquittal, or imposition of a sentence by
13 the court.

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

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

19 (f) "Prosecuting attorney" means the prosecuting attorney
20 for a county, an assistant prosecuting attorney for a county, the
21 attorney general, the deputy attorney general, an assistant
22 attorney general, a special prosecuting attorney, or, in connec-
23 tion with the prosecution of an ordinance violation, an attorney
24 for the political subdivision that enacted the ordinance upon
25 which the violation is based.

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

1 (i) An individual who suffers direct or threatened physical,
2 financial, or emotional harm as a result of the commission of a
3 serious misdemeanor, except as provided in subparagraph (ii),
4 (iii), or (iv).

5 (ii) The following individuals other than the defendant if
6 the victim is deceased:

7 (A) The spouse of the deceased victim.

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

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

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

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

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

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

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

25 (2) If a victim as defined in subsection (1)(g)(i) is physi-
26 cally or emotionally unable to exercise the privileges and rights
27 under this article, the victim may designate his or her spouse or

1 a child 18 years of age or older, parent, sibling, or grandparent
2 of the victim to act in place of the victim during the duration
3 of the physical or emotional disability. The victim shall pro-
4 vide the prosecuting attorney with the name of the person who is
5 to act in place of the victim. During the physical or emotional
6 disability, notices to be provided under this article to the
7 victim shall continue to be sent only to the victim.

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