

HOUSE BILL No. 6108

August 4, 2004, Introduced by Rep. Van Regenmorter and referred to the Committee on Criminal Justice.

A bill to amend 1985 PA 87, entitled
"Crime victim's rights act,"
by amending sections 2, 16, 16a, 17, 18, 18a, 20, 22, 31, 43, 44, 44a, 45, 46, 47, 61, 76, 76a, 77, 78, and 81 (MCL 780.752, 780.766, 780.766a, 780.767, 780.768, 780.768a, 780.770, 780.772, 780.781, 780.793, 780.794, 780.794a, 780.795, 780.796, 780.797, 780.811, 780.826, 780.826a, 780.827, 780.828, and 780.831), sections 2, 16, 18a, 31, 43, 44, 46, 61, 76, and 78 as amended by 2000 PA 503, sections 16a, 44a, and 76a as amended by 2003 PA 98, sections 17, 18, 45, 47, and 81 as amended by 1996 PA 562, and section 77 as added by 1988 PA 21, and by adding section 19a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as otherwise defined in this article, as
2 used in this article:

3 (a) "Center" means that term as defined in section 100a of

1 the mental health code, 1974 PA 258, MCL 330.1100a.

2 (b) ~~-(a)-~~ "County juvenile agency" means that term as defined
3 in section 2 of the county juvenile agency act, 1998 PA 518, MCL
4 45.622.

5 (c) ~~-(b)-~~ "Crime" means a violation of a penal law of this
6 state for which the offender, upon conviction, may be punished by
7 imprisonment for more than 1 year or an offense expressly
8 designated by law as a felony.

9 (d) ~~-(e)-~~ "Defendant" means a person charged with, ~~or~~
10 convicted of, or found not guilty by reason of insanity of
11 committing a crime against a victim.

12 (e) ~~-(d)-~~ "Final disposition" means the ultimate termination
13 of the criminal prosecution of a defendant including, but not
14 limited to, dismissal, acquittal, or imposition of sentence by
15 the court.

16 (f) ~~-(e)-~~ "Juvenile" means a person within the jurisdiction
17 of the circuit court under section 606 of the revised judicature
18 act of 1961, 1961 PA 236, MCL 600.606.

19 (g) ~~-(f)-~~ "Juvenile facility" means a county facility,
20 institution operated as an agency of the county or the family
21 division of circuit court, or an institution or agency described
22 in the youth rehabilitation services act, 1974 PA 150, MCL
23 803.301 to 803.309, to which a juvenile has been committed or in
24 which a juvenile is detained.

25 (h) "Hospital" means that term as defined in section 100b of
26 the mental health code, 1974 PA 258, MCL 330.1100b.

27 (i) ~~-(g)-~~ "Person" means an individual, organization,

1 partnership, corporation, or governmental entity.

2 **(j)** ~~—(h)—~~ "Prisoner" means a person who has been convicted
3 and sentenced to imprisonment or placement in a juvenile facility
4 for having committed a crime or an act that would be a crime if
5 committed by an adult against a victim.

6 **(k)** ~~—(i)—~~ "Prosecuting attorney" means the prosecuting
7 attorney for a county, an assistant prosecuting attorney for a
8 county, the attorney general, the deputy attorney general, an
9 assistant attorney general, or a special prosecuting attorney.

10 **(l)** ~~—(j)—~~ "Victim" means any of the following:

11 (i) An individual who suffers direct or threatened physical,
12 financial, or emotional harm as a result of the commission of a
13 crime, except as provided in subparagraph (ii), (iii), or (iv).

14 (ii) The following individuals other than the defendant if
15 the victim is deceased:

16 (A) The spouse of the deceased victim.

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

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

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

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

26 (F) A grandparent of the deceased victim if sub-subparagraphs
27 (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 and who is neither the defendant nor
3 incarcerated, if the parent, guardian, or custodian 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 if he or she is neither the defendant nor incarcerated.

7 (2) If a victim as defined in subsection ~~-(1)(j)-(i)~~
8 **(1)(l)(i)** is physically or emotionally unable to exercise the
9 privileges and rights under this article, the victim may
10 designate his or her spouse, child 18 years of age or older,
11 parent, sibling, grandparent, or any other person 18 years of age
12 or older who is neither the defendant nor incarcerated to act in
13 his or her place while the physical or emotional disability
14 continues. The victim shall provide the prosecuting attorney
15 with the name of the person who is to act in his or her place.
16 During the physical or emotional disability, notices to be
17 provided under this article to the victim shall continue to be
18 sent only to the victim.

19 (3) An individual who is charged with a crime arising out of
20 the same transaction from which the charge against the defendant
21 arose is not eligible to exercise the privileges and rights
22 established for victims under this article.

23 (4) An individual who is incarcerated is not eligible to
24 exercise the privileges and rights established for victims under
25 this article except that he or she may submit a written statement
26 to the court for consideration at sentencing.

27 Sec. 16. (1) For purposes of this section only, "victim"

1 means an individual who suffers direct or threatened physical,
2 financial, or emotional harm as a result of the commission of a
3 crime. For purposes of subsections (2), (3), (6), (8), (9), and
4 (13), victim includes a sole proprietorship, partnership,
5 corporation, association, governmental entity, or any other legal
6 entity that suffers direct physical or financial harm as a result
7 of a crime.

8 (2) Except as provided in subsection (8), when sentencing a
9 defendant convicted of a crime, the court shall order, in
10 addition to or in lieu of any other penalty authorized by law or
11 in addition to any other penalty required by law, that the
12 defendant make full restitution to any victim of the defendant's
13 course of conduct that gives rise to the conviction or to the
14 victim's estate. **For an offense that is resolved by assignment**
15 **of the defendant to youthful trainee status, by a deferred**
16 **sentence, or in another way that is not an unconditional**
17 **dismissal but does not result in a conviction, the court shall**
18 **order the restitution required under this section.**

19 (3) If a crime results in damage to or loss or destruction of
20 property of a victim of the crime or results in the seizure or
21 impoundment of property of a victim of the crime, the order of
22 restitution may require that the defendant do 1 or more of the
23 following, as applicable:

24 (a) Return the property to the owner of the property or to a
25 person designated by the owner.

26 (b) If return of the property under subdivision (a) is
27 impossible, impractical, or inadequate, pay an amount equal to

1 the greater of subparagraph (i) or (ii), less the value,
2 determined as of the date the property is returned, of that
3 property or any part of the property that is returned:

4 (i) The value of the property on the date of the damage,
5 loss, or destruction.

6 (ii) The value of the property on the date of sentencing.

7 (c) Pay the costs of the seizure or impoundment, or both.

8 (4) If a crime results in physical or psychological injury to
9 a victim, the order of restitution may require that the defendant
10 do 1 or more of the following, as applicable:

11 (a) Pay an amount equal to the reasonably determined cost of
12 medical and related professional services and devices actually
13 incurred and reasonably expected to be incurred relating to
14 physical and psychological care.

15 (b) Pay an amount equal to the reasonably determined cost of
16 physical and occupational therapy and rehabilitation actually
17 incurred and reasonably expected to be incurred.

18 (c) Reimburse the victim or the victim's estate for after-tax
19 income loss suffered by the victim as a result of the crime.

20 (d) Pay an amount equal to the reasonably determined cost of
21 psychological and medical treatment for members of the victim's
22 family actually incurred and reasonably expected to be incurred
23 as a result of the crime.

24 (e) Pay an amount equal to the reasonably determined costs of
25 homemaking and child care expenses actually incurred and
26 reasonably expected to be incurred as a result of the crime or,
27 if homemaking or child care is provided without compensation by a

1 relative, friend, or any other person, an amount equal to the
2 costs that would reasonably be incurred as a result of the crime
3 for that homemaking and child care, based on the rates in the
4 area for comparable services.

5 (f) Pay an amount equal to the cost of actual funeral and
6 related services.

7 (g) If the deceased victim could be claimed as a dependent by
8 his or her parent or guardian on the parent's or guardian's
9 federal, state, or local income tax returns, pay an amount equal
10 to the loss of the tax deduction or tax credit. The amount of
11 reimbursement shall be estimated for each year the victim could
12 reasonably be claimed as a dependent.

13 (5) If a crime resulting in bodily injury also results in the
14 death of a victim or serious impairment of a body function of a
15 victim, the court may order up to 3 times the amount of
16 restitution otherwise allowed under this section. As used in
17 this subsection, "serious impairment of a body function of a
18 victim" includes, but is not limited to, 1 or more of the
19 following:

20 (a) Loss of a limb or use of a limb.

21 (b) Loss of a hand or foot or use of a hand or foot.

22 (c) Loss of an eye or use of an eye or ear.

23 (d) Loss or substantial impairment of a bodily function.

24 (e) Serious visible disfigurement.

25 (f) A comatose state that lasts for more than 3 days.

26 (g) Measurable brain damage or mental impairment.

27 (h) A skull fracture or other serious bone fracture.

1 (i) Subdural hemorrhage or subdural hematoma.

2 (j) Loss of a body organ.

3 (6) If the victim or victim's estate consents, the order of
4 restitution may require that the defendant make restitution in
5 services in lieu of money.

6 (7) If the victim is deceased, the court shall order that the
7 restitution be made to the victim's estate.

8 (8) The court shall order restitution to the crime victim
9 services commission or to any individuals, partnerships,
10 corporations, associations, governmental entities, or other legal
11 entities that have compensated the victim or the victim's estate
12 for a loss incurred by the victim to the extent of the
13 compensation paid for that loss. The court shall also order
14 restitution for the costs of services provided to persons or
15 entities that have provided services to the victim as a result of
16 the crime. Services that are subject to restitution under this
17 subsection include, but are not limited to, shelter, food,
18 clothing, and transportation. However, an order of restitution
19 shall require that all restitution to a victim or victim's estate
20 under the order be made before any restitution to any other
21 person or entity under that order is made. The court shall not
22 order restitution to be paid to a victim or victim's estate if
23 the victim or victim's estate has received or is to receive
24 compensation for that loss, and the court shall state on the
25 record with specificity the reasons for its action.

26 (9) Any amount paid to a victim or victim's estate under an
27 order of restitution shall be set off against any amount later

1 recovered as compensatory damages by the victim or the victim's
2 estate in any federal or state civil proceeding and shall reduce
3 the amount payable to a victim or a victim's estate by an award
4 from the crime victim services commission made after an order of
5 restitution under this section.

6 (10) If not otherwise provided by the court under this
7 subsection, restitution shall be made immediately. However, the
8 court may require that the defendant make restitution under this
9 section within a specified period or in specified installments.

10 (11) If the defendant is placed on probation or paroled or
11 the court imposes a conditional sentence as provided in section 3
12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
13 769.3, any restitution ordered under this section shall be a
14 condition of that probation, parole, or sentence. The court may
15 revoke probation or impose imprisonment under the conditional
16 sentence and the parole board may revoke parole if the defendant
17 fails to comply with the order and if the defendant has not made
18 a good faith effort to comply with the order. In determining
19 whether to revoke probation or parole or impose imprisonment, the
20 court or parole board shall consider the defendant's employment
21 status, earning ability, and financial resources, the willfulness
22 of the defendant's failure to pay, and any other special
23 circumstances that may have a bearing on the defendant's ability
24 to pay.

25 (12) ~~—A—~~ **Subject to subsection (18),** a defendant who is
26 required to pay restitution and who is not in willful default of
27 the payment of the restitution may at any time petition the

1 sentencing judge or his or her successor to modify the method of
2 payment. If the court determines that payment under the order
3 will impose a manifest hardship on the defendant or his or her
4 immediate family, and if the court also determines that modifying
5 the method of payment will not impose a manifest hardship on the
6 victim, the court may modify the method of payment.

7 (13) An order of restitution entered under this section
8 remains effective until it is satisfied in full. An order of
9 restitution is a judgment and lien against all property of the
10 defendant for the amount specified in the order of restitution.
11 The lien may be recorded as provided by law. An order of
12 restitution may be enforced by the prosecuting attorney, a
13 victim, a victim's estate, or any other person or entity named in
14 the order to receive the restitution in the same manner as a
15 judgment in a civil action or a lien.

16 (14) Notwithstanding any other provision of this section, a
17 defendant shall not be imprisoned, jailed, or incarcerated for a
18 violation of probation or parole or otherwise for failure to pay
19 restitution as ordered under this section unless the court or
20 parole board determines that the defendant has the resources to
21 pay the ordered restitution and has not made a good faith effort
22 to do so.

23 (15) If the court determines that a juvenile is or will be
24 unable to pay all of the restitution ordered, after notice to the
25 juvenile's parent or parents and an opportunity for the parent or
26 parents to be heard the court may order the parent or parents
27 having supervisory responsibility for the juvenile at the time of

1 the acts upon which an order of restitution is based to pay any
2 portion of the restitution ordered that is outstanding. An order
3 under this subsection does not relieve the juvenile of his or her
4 obligation to pay restitution as ordered, but the amount owed by
5 the juvenile shall be offset by any amount paid by his or her
6 parent. As used in this subsection:

7 (a) "Juvenile" means a person within the court's jurisdiction
8 under section 2d or 4 of chapter XIIA of the probate code of
9 1939, 1939 PA 288, MCL 712A.2d and 712A.4.

10 (b) "Parent" does not include a foster parent.

11 (16) If the court orders a parent to pay restitution under
12 subsection (15), the court shall take into account the parent's
13 financial resources and the burden that the payment of
14 restitution will impose, with due regard to any other moral or
15 legal financial obligations the parent may have. If a parent is
16 required to pay restitution under subsection (15), the court
17 shall provide for payment to be made in specified installments
18 and within a specified period of time.

19 (17) A parent who has been ordered to pay restitution under
20 subsection (15) may petition the court for a modification of the
21 amount of restitution owed by the parent or for a cancellation of
22 any unpaid portion of the parent's obligation. The court shall
23 cancel all or part of the parent's obligation due if the court
24 determines that payment of the amount due will impose a manifest
25 hardship on the parent and if the court also determines that
26 modifying the method of payment will not impose a manifest
27 hardship on the victim.

1 (18) In each case in which payment of restitution is ordered
2 as a condition of probation **or parole**, the court ~~may~~ **shall**
3 order any employed defendant to execute a wage assignment to pay
4 the restitution. The probation officer assigned to the case
5 shall review the case not less than twice yearly to ensure that
6 restitution is being paid as ordered. If the restitution was
7 ordered to be made within a specific period of time, the
8 probation officer assigned to the case shall review the case at
9 the end of the specific period of time to determine if the
10 restitution has been paid in full. The final review shall be
11 conducted not less than 60 days before the probationary period
12 expires. If the probation officer determines at any review that
13 restitution is not being paid as ordered, the probation officer
14 shall file a written report of the violation with the court on a
15 form prescribed by the state court administrative office or shall
16 petition the court for a probation violation. The report or
17 petition shall include a statement of the amount of the arrearage
18 and any reasons for the arrearage known by the probation
19 officer. The probation officer shall immediately provide a copy
20 of the report or petition to the prosecuting attorney. If a
21 petition or motion is filed or other proceedings are initiated to
22 enforce payment of restitution and the court determines that
23 restitution is not being paid or has not been paid as ordered by
24 the court, the court shall promptly take action necessary to
25 compel compliance.

26 (19) If a defendant who is ordered to pay restitution under
27 this section is remanded to the jurisdiction of the department of

1 corrections, the court shall provide a copy of the order of
2 restitution to the department of corrections when the defendant
3 is remanded to the department's jurisdiction.

4 (20) The court shall not impose a fee on a victim, victim's
5 estate, or prosecuting attorney for enforcing an order of
6 restitution.

7 (21) If a person or entity entitled to restitution cannot be
8 located, ~~or~~ refuses to claim ~~that~~ **the** restitution within 2
9 years after the date on which he or she could have claimed the
10 restitution, **refuses to accept the restitution, or cannot claim**
11 **the restitution to which he or she would be entitled except for a**
12 **provision of law, including a provision abolishing tort**
13 **liability**, the restitution paid to that person or entity shall be
14 deposited in the crime victim's rights fund created under section
15 4 of 1989 PA 196, MCL 780.904, or its successor fund. However, a
16 person or entity entitled to that restitution may claim that
17 restitution any time by applying to the court that originally
18 ordered and collected it. The court shall notify the crime
19 victim services commission of the application and the commission
20 shall approve a reduction in the court's revenue transmittal to
21 the crime victim rights fund equal to the restitution owed to the
22 person or entity. The court shall use the reduction to reimburse
23 that restitution to the person or entity.

24 Sec. 16a. (1) If a person is subject to any combination of
25 fines, costs, restitution, assessments, probation or parole
26 supervision fees, or other payments arising out of the same
27 criminal proceeding, money collected from that person for the

1 payment of fines, costs, restitution, assessments, probation or
2 parole supervision fees, or other payments **ordered to be paid in**
3 **that proceeding** shall be allocated as provided in this section.
4 **Unless full restitution and all assessments have been paid in a**
5 **proceeding, money collected for the payment of fines, costs,**
6 **restitution, assessments, probation or parole supervision fees,**
7 **or other payments in that proceeding shall not be applied to the**
8 **payment of fines, costs, probation or parole supervision fees, or**
9 **other payments ordered in another case or proceeding.**

10 (2) Except as otherwise provided in this subsection, if a
11 person is subject to payment of victim payments and any
12 combination of other fines, costs, assessments, probation or
13 parole supervision fees, or other payments, 50% of each payment
14 collected by the court from that person shall be applied to
15 payment of victim payments, and the balance shall be applied to
16 payment of fines, costs, supervision fees, and other assessments
17 or payments. If any fines, costs, supervision fees, or other
18 assessments or payments remain unpaid after all of the victim
19 payments have been paid, any additional money collected shall be
20 applied to payment of those fines, costs, supervision fees, or
21 other assessments or payments. If any victim payments remain
22 unpaid after all of the fines, costs, supervision fees, or other
23 assessments or payments have been paid, any additional money
24 collected shall be applied toward payment of those victim
25 payments.

26 (3) In cases involving prosecutions for violations of state
27 law, money allocated under subsection (2) for payment of fines,

1 costs, probation and parole supervision fees, and assessments or
2 payments other than victim payments shall be applied in the
3 following order of priority:

4 (a) Payment of the minimum state cost prescribed by section
5 1j of chapter IX of the code of criminal procedure, 1927 PA 175,
6 MCL 769.1j.

7 (b) Payment of other costs.

8 (c) Payment of fines.

9 (d) Payment of probation or parole supervision fees.

10 (e) Payment of assessments and other payments, including
11 reimbursement to third parties who reimbursed a victim for his or
12 her loss.

13 (4) In cases involving prosecutions for violations of local
14 ordinances, money allocated under subsection (2) for payment of
15 fines, costs, and assessments or payments other than victim
16 payments shall be applied in the following order of priority:

17 (a) Payment of the minimum state cost prescribed by section
18 1j of chapter IX of the code of criminal procedure, 1927 PA 175,
19 MCL 769.1j.

20 (b) Payment of fines and other costs.

21 (c) Payment of assessments and other payments.

22 (5) As used in this section, "victim payment" means
23 restitution ordered to be paid to the victim ~~—, to~~ or the
24 victim's estate, but not to a person who reimbursed the victim
25 for his or her loss; or an assessment ordered under section 5 of
26 1989 PA 196, MCL 780.905.

27 Sec. 17. (1) In determining the amount of restitution to

1 order under section 16, the court shall consider the amount of
2 the loss sustained by any victim as a result of the offense.

3 (2) The court may order ~~the~~ a probation officer to obtain
4 information pertaining to the amounts of loss described in
5 subsection (1). The probation officer shall include the
6 information collected in the presentence investigation report or
7 in a separate report, as the court directs.

8 (3) The court shall disclose to both the defendant and the
9 prosecuting attorney all portions of the presentence or other
10 report pertaining to the matters described in subsection (1).

11 (4) Any dispute as to the proper amount or type of
12 restitution shall be resolved by the court by a preponderance of
13 the evidence. The burden of demonstrating the amount of the loss
14 sustained by a victim as a result of the offense shall be on the
15 prosecuting attorney.

16 (5) **The prosecuting attorney may conduct an investigation and**
17 **obtain information, with or without the formal assistance of the**
18 **court, pertaining to the amounts of loss described in subsection**
19 **(1).**

20 Sec. 18. (1) A person convicted of a crime shall not derive
21 any profit from the sale of his or her recollections, thoughts,
22 ~~and~~ or feelings with regard to the offense committed by that
23 person, **or from the sale of the person's memorabilia or property,**
24 **the value of which has been enhanced or increased by the person's**
25 **notoriety,** until the victim receives any restitution or
26 compensation ordered for him or her against the defendant, ~~and~~
27 expenses of incarceration are ~~recovered as provided in~~ **paid**

1 **under** subsection (3), and ~~until~~ **any balance in** the escrow
2 account created under subsection (2) is ~~terminated~~ **paid** under
3 subsection (4).

4 (2) Upon the conviction of a defendant for a crime involving
5 a victim, and after notice to ~~any interested party~~ **all**
6 **interested parties**, an attorney for the county in which the
7 conviction occurred or the attorney general may petition the
8 court in which the conviction occurred to order that **the**
9 defendant forfeit all or any part of proceeds received or to be
10 received by the defendant ~~—~~ or the defendant's representatives
11 or assignees ~~—~~ from contracts relating to the depiction of the
12 crime or the defendant's recollections, thoughts, or feelings
13 about the crime, in books, magazines, media entertainment, or
14 live entertainment, ~~as provided in this section~~ **from the sale**
15 **of memorabilia of the crime, or from the sale of property of the**
16 **defendant.** The proceeds shall be held in escrow for a period of
17 not more than 5 years.

18 (3) During the existence of ~~the~~ **an** escrow account **created**
19 **under subsection (2)**, proceeds in the account shall be
20 distributed in the following priority to satisfy the following:

21 (a) An order of restitution entered under ~~sections 16 and~~
22 ~~17~~ **section 16.**

23 (b) Any civil judgment in favor of the victim against ~~that~~
24 **the** defendant.

25 (c) Any reimbursement ordered under the prisoner
26 reimbursement to the county act, ~~Act No. 118 of the Public Acts~~
27 ~~of 1984, being sections 801.81 to 801.93 of the Michigan Compiled~~

1 ~~Laws, or ordered under 1984 PA 118, MCL 801.81 to 801.93, or the~~
2 ~~state correctional facility reimbursement act, Act No. 253 of~~
3 ~~the Public Acts of 1935, being sections 800.401 to 800.406 of the~~
4 ~~Michigan Compiled Laws 1935 PA 253, MCL 800.401 to 800.406.~~

5 (4) ~~The~~ **A** balance remaining in ~~the~~ **an** escrow account
6 **created under subsection (2)** at the end of the escrow period
7 shall be paid to the crime victim's rights ~~assessment~~ fund
8 **created in section 4 of 1989 PA 196, MCL 780.904.**

9 Sec. 18a. (1) Upon the request of the victim, the
10 prosecuting attorney shall notify the victim **if 1 or more** of the
11 following **occur**:

12 (a) ~~That the defendant filed~~ **The defendant files** an appeal
13 of his or her conviction or sentence or ~~that~~ the prosecuting
14 attorney ~~filed~~ **files** an appeal.

15 (b) ~~Whether the defendant has been~~ **The defendant is** ordered
16 released on bail or other recognizance pending the disposition of
17 ~~the~~ **an** appeal. If the prosecuting attorney is notified that
18 the defendant has been ordered released on bail or other
19 recognizance pending disposition of the appeal, the prosecuting
20 attorney shall use any means reasonably calculated to give the
21 victim notice of that order within 24 hours after the prosecuting
22 attorney is notified of the order.

23 (c) ~~The time and place of any appellate~~ **Appellate** court
24 proceedings **are scheduled. The prosecuting attorney shall give**
25 **the victim notice of the time and place** and any changes in the
26 time or place of those proceedings.

27 (d) ~~The result of the~~ **A decision or order is entered on an**

1 appeal. If the conviction is ordered reversed, the sentence is
2 vacated, the case is remanded for a new trial, or the prosecuting
3 attorney's appeal is denied, and if the prosecuting attorney has
4 filed the appropriate notice with the appellate court, the
5 appellate court shall expedite delivery of the relevant document
6 to the prosecuting attorney's office by any means reasonably
7 calculated to give the prosecuting attorney prompt notice. The
8 prosecuting attorney shall use any means reasonably calculated to
9 give the victim notice of that order within 24 hours after the
10 prosecuting attorney is notified of the order.

11 (2) If ~~the~~ a prosecuting attorney is not successful in
12 notifying ~~the~~ a victim of an event described in subsection (1)
13 within the ~~period set forth~~ **time prescribed** in that subsection,
14 the prosecuting attorney shall notify the victim of that event as
15 soon as possible by any means reasonably calculated to give the
16 victim prompt actual notice.

17 (3) ~~Upon the request of the victim, the~~ A prosecuting
18 attorney shall provide ~~the~~ a victim with a brief explanation in
19 plain English of the appeal process, including the possible
20 dispositions.

21 (4) If ~~the~~ a case is returned to the trial court for
22 further proceedings or a new trial, the victim has the same
23 rights as previously requested during the proceedings that led to
24 the appeal.

25 **Sec. 19a. (1) On a victim's written request, the director**
26 **of a hospital or center where a defendant has been hospitalized**
27 **or admitted by court order shall mail to the court that issued**

1 the order of hospitalization or order of admission notice of the
2 following:

3 (a) A pending transfer of the defendant to a less secure
4 hospital or center.

5 (b) A pending transfer of the defendant to alternative care
6 or treatment or community placement.

7 (c) A pending leave, absence, furlough, or other release from
8 confinement for the defendant, whether temporary or permanent.

9 (2) A director of a hospital or center shall mail a notice
10 required by subsection (1) a sufficient time before the pending
11 action to allow notice to be given to the victim under subsection
12 (3).

13 (3) On receipt of a notice under subsection (1) and before
14 the action that is the subject of the notice, the court shall
15 mail copies of the notice to the victim and the prosecuting
16 attorney for the county where charges against the defendant that
17 resulted in the hospitalization or admission were originally
18 brought.

19 (4) A victim's address and telephone number maintained by a
20 hospital, center, or court under this section is exempt from
21 disclosure under the freedom of information act, 1976 PA 442, MCL
22 15.231 to 15.246.

23 Sec. 20. (1) ~~As provided in subsection (2) or (3),~~ The
24 person designated in subsections (2) to (4) shall give a victim
25 who requests notice ~~of the escape~~ and the prosecuting attorney
26 who is prosecuting or has prosecuted the crime for which ~~the~~
27 ~~person~~ a defendant is detained, ~~or~~ under sentence, ~~shall be~~

1 ~~given~~ **hospitalized, or admitted to a center** immediate notice of
2 the escape of the ~~person~~ **defendant** accused, convicted, ~~or~~
3 imprisoned, **hospitalized, or admitted** for committing a crime
4 against the victim. The notice shall be given by any means
5 reasonably calculated to give prompt actual notice.

6 (2) If ~~the~~ **an escape for which a notice under this section**
7 **is required** occurs before ~~the~~ sentence is executed or before
8 the defendant is delivered to the department of corrections,
9 **hospitalized, or admitted to a center**, the chief law enforcement
10 officer of the agency in charge of the person's detention shall
11 give notice of the escape to the prosecuting attorney, who shall
12 then give notice of the escape to ~~a~~ **the** victim who requested
13 notice.

14 (3) If the defendant is confined ~~pursuant to~~ **under** a
15 sentence, the notice **required under this section** shall be given
16 by the chief administrator of the place in which the prisoner is
17 confined.

18 (4) If the defendant is hospitalized under an order of
19 hospitalization or admitted to a center under an order of
20 admission, the notice required under this section shall be given
21 by the director of the hospital in which the defendant is
22 hospitalized or by the director of the center to which the
23 defendant is admitted.

24 Sec. 22. ~~Upon the request of a victim, the~~ **A** prosecuting
25 attorney shall, within 30 days of the final disposition of ~~the~~
26 **a** case, notify the victim in writing of the final disposition of
27 the case.

1 Sec. 31. (1) Except as otherwise defined in this article,
2 as used in this article:

3 (a) "County juvenile agency" means that term as defined in
4 section 2 of the county juvenile agency act, 1998 PA 518, MCL
5 45.622.

6 (b) "Court" means the family division of circuit court.

7 (c) "Designated case" means a case designated as a case in
8 which the juvenile is to be tried in the same manner as an adult
9 under section 2d of chapter XIIIA of the probate code of 1939,
10 1939 PA 288, MCL 712A.2d.

11 (d) "Juvenile" means an individual alleged or found to be
12 within the court's jurisdiction under section 2(a)(1) of chapter
13 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for an
14 offense, including, but not limited to, an individual in a
15 designated case.

16 (e) "Juvenile facility" means a county facility, an
17 institution operated as an agency of the county or the court, or
18 an institution or agency described in the youth rehabilitation
19 services act, 1974 PA 150, MCL 803.301 to 803.309, to which a
20 juvenile has been committed or in which a juvenile is detained.

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

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

26 (ii) A violation of section 81 (assault and battery,
27 including domestic violence), 81a (assault; infliction of serious

1 injury, including aggravated domestic violence), 115 (breaking
2 and entering or illegal entry), ~~136b(5)~~ **136b(6)** (child abuse in
3 the fourth degree), 145a (enticing a child for immoral purposes),
4 234 (discharge of a firearm intentionally aimed at a person), 235
5 (discharge of an intentionally aimed firearm resulting in
6 injury), 335a (indecent exposure), or 411h (stalking) of the
7 Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.115,
8 750.136b, 750.145a, 750.234, 750.235, 750.335a, and 750.411h.

9 (iii) A violation of section 617a (leaving the scene of a
10 personal injury accident) of the Michigan vehicle code, 1949 PA
11 300, MCL 257.617a, or a violation of section 625 (operating a
12 vehicle while under the influence of or impaired by intoxicating
13 liquor or a controlled substance, or with unlawful blood alcohol
14 content) of that act, MCL 257.625, if the violation involves an
15 accident resulting in damage to another individual's property or
16 physical injury or death to another individual.

17 (iv) Selling or furnishing alcoholic liquor to an individual
18 less than 21 years of age in violation of section 33 of the
19 former 1933 (Ex Sess) PA 8, or section 701 of the Michigan liquor
20 control code of 1998, 1998 PA 58, MCL 436.1701, if the violation
21 results in physical injury or death to any individual.

22 (v) A violation of section 80176(1) or (3) (operating a
23 vessel while under the influence of or impaired by intoxicating
24 liquor or a controlled substance, or with unlawful blood alcohol
25 content) of the natural resources and environmental protection
26 act, 1994 PA 451, MCL 324.80176, if the violation involves an
27 accident resulting in damage to another individual's property or

1 physical injury or death to any individual.

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

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

7 (g) "Person" means an individual, organization, partnership,
8 corporation, or governmental entity.

9 (h) "Prosecuting attorney" means the prosecuting attorney for
10 a county, an assistant prosecuting attorney for a county, the
11 attorney general, the deputy attorney general, an assistant
12 attorney general, a special prosecuting attorney, or, in
13 connection with the prosecution of an ordinance violation, an
14 attorney for the political subdivision that enacted the ordinance
15 upon which the violation is based.

16 (i) "Victim" means any of the following:

17 (i) A person who suffers direct or threatened physical,
18 financial, or emotional harm as a result of the commission of an
19 offense, except as provided in subparagraph (ii), (iii), or
20 (iv).

21 (ii) The following individuals other than the juvenile if the
22 victim is deceased:

23 (A) The spouse of the deceased victim.

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

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

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

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

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

8 (iii) A parent, guardian, or custodian of a victim who is
9 less than 18 years of age and who is neither the defendant nor
10 incarcerated, if the parent, guardian, or custodian so chooses.

11 (iv) A parent, guardian, or custodian of a victim who is
12 mentally or emotionally unable to participate in the legal
13 process if he or she is neither the defendant nor incarcerated.

14 (2) If a victim as defined in subsection ~~—(1)(h)(i)~~
15 **(1)(i)(i)** is physically or emotionally unable to exercise the
16 privileges and rights under this article, the victim may
17 designate his or her spouse, child 18 years of age or older,
18 parent, sibling, grandparent, or any other person 18 years of age
19 or older who is neither the defendant nor incarcerated to act in
20 his or her place while the physical or emotional disability
21 continues. The victim shall provide the prosecuting attorney
22 with the name of the person who is to act in his or her place.
23 During the physical or emotional disability, notices to be
24 provided under this article to the victim shall continue to be
25 sent only to the victim.

26 (3) An individual who is charged with an offense arising out
27 of the same transaction from which the charge against the

1 defendant arose is not eligible to exercise the privileges and
2 rights established for victims under this article.

3 Sec. 43. (1) ~~The~~ **A** victim has the right to appear and
4 make an oral impact statement at ~~the~~ **a** juvenile's disposition
5 or sentencing. If the victim is physically or emotionally unable
6 to make the oral impact statement, the victim may designate any
7 other person 18 years of age or older who is neither the
8 defendant nor incarcerated to make the statement on his or her
9 behalf. The other person need not be an attorney.

10 (2) ~~Upon request, the~~ **A** victim shall be notified by the
11 prosecuting attorney ~~—~~ or, pursuant to an agreement under
12 section 48a, the court of the disposition of the juvenile's
13 offense not more than 30 days after the disposition is made.

14 Sec. 44. (1) For purposes of this section only:

15 (a) "Offense" means a violation of a penal law of this state
16 or a violation of an ordinance of a local unit of government of
17 this state punishable by imprisonment or by a fine that is not a
18 civil fine.

19 (b) "Victim" means an individual who suffers direct or
20 threatened physical, financial, or emotional harm as a result of
21 the commission of an offense. For purposes of subsections (2),
22 (3), (6), (8), (9), and (13), victim includes a sole
23 proprietorship, partnership, corporation, association,
24 governmental entity, or any other legal entity that suffers
25 direct physical or financial harm as a result of an offense.

26 (2) Except as provided in subsection (8), at the
27 dispositional hearing or sentencing for an offense, the court

1 shall order, in addition to or in lieu of any other disposition
2 or penalty authorized by law, that the juvenile make full
3 restitution to any victim of the juvenile's course of conduct
4 that gives rise to the disposition or conviction or to the
5 victim's estate. For an offense that is resolved informally by
6 means of a consent calendar diversion or any other informal
7 method that does not result in a dispositional hearing, the court
8 shall order the restitution required under this section.

9 (3) If an offense results in damage to or loss or destruction
10 of property of a victim of the offense or results in the seizure
11 or impoundment of property of a victim of the offense, the order
12 of restitution may require that the juvenile do 1 or more of the
13 following, as applicable:

14 (a) Return the property to the owner of the property or to a
15 person designated by the owner.

16 (b) If return of the property under subdivision (a) is
17 impossible, impractical, or inadequate, pay an amount equal to
18 the greater of subparagraph (i) or (ii), less the value,
19 determined as of the date the property is returned, of that
20 property or any part of the property that is returned:

21 (i) The value of the property on the date of the damage,
22 loss, or destruction.

23 (ii) The value of the property on the date of disposition.

24 (c) Pay the costs of the seizure or impoundment, or both.

25 (4) If an offense results in physical or psychological injury
26 to a victim, the order of restitution may require that the
27 juvenile do 1 or more of the following, as applicable:

1 (a) Pay an amount equal to the reasonably determined cost of
2 medical and related professional services and devices actually
3 incurred and reasonably expected to be incurred relating to
4 physical and psychological care.

5 (b) Pay an amount equal to the reasonably determined cost of
6 physical and occupational therapy and rehabilitation actually
7 incurred and reasonably expected to be incurred.

8 (c) Reimburse the victim or the victim's estate for after-tax
9 income loss suffered by the victim as a result of the offense.

10 (d) Pay an amount equal to the reasonably determined cost of
11 psychological and medical treatment for members of the victim's
12 family actually incurred or reasonably expected to be incurred as
13 a result of the offense.

14 (e) Pay an amount equal to the reasonably determined costs of
15 homemaking and child care expenses actually incurred or
16 reasonably expected to be incurred as a result of the offense or,
17 if homemaking or child care is provided without compensation by a
18 relative, friend, or any other person, an amount equal to the
19 costs that would reasonably be incurred as a result of the
20 offense for that homemaking and child care, based on the rates in
21 the area for comparable services.

22 (f) Pay an amount equal to the cost of actual funeral and
23 related services.

24 (g) If the deceased victim could be claimed as a dependent by
25 his or her parent or guardian on the parent's or guardian's
26 federal, state, or local income tax returns, pay an amount equal
27 to the loss of the tax deduction or tax credit. The amount of

1 reimbursement shall be estimated for each year the victim could
2 reasonably be claimed as a dependent.

3 (5) If an offense resulting in bodily injury also results in
4 the death of a victim or serious impairment of a body function of
5 a victim, the court may order up to 3 times the amount of
6 restitution otherwise allowed under this section. As used in
7 this subsection, "serious impairment of a body function of a
8 victim" includes, but is not limited to, 1 or more of the
9 following:

- 10 (a) Loss of a limb or use of a limb.
- 11 (b) Loss of a hand or foot or use of a hand or foot.
- 12 (c) Loss of an eye or use of an eye or ear.
- 13 (d) Loss or substantial impairment of a bodily function.
- 14 (e) Serious visible disfigurement.
- 15 (f) A comatose state that lasts for more than 3 days.
- 16 (g) Measurable brain damage or mental impairment.
- 17 (h) A skull fracture or other serious bone fracture.
- 18 (i) Subdural hemorrhage or subdural hematoma.
- 19 (j) Loss of a body organ.

20 (6) If the victim or victim's estate consents, the order of
21 restitution may require that the juvenile make restitution in
22 services in lieu of money.

23 (7) If the victim is deceased, the court shall order that the
24 restitution be made to the victim's estate.

25 (8) The court shall order restitution to the crime victim
26 services commission or to any individuals, partnerships,
27 corporations, associations, governmental entities, or other legal

1 entities that have compensated the victim or the victim's estate
2 for a loss incurred by the victim to the extent of the
3 compensation paid for that loss. The court shall also order
4 restitution for the costs of services provided to persons or
5 entities that have provided services to the victim as a result of
6 the offense. Services that are subject to restitution under this
7 subsection include, but are not limited to, shelter, food,
8 clothing, and transportation. However, an order of restitution
9 shall require that all restitution to a victim or victim's estate
10 under the order be made before any restitution to any other
11 person or entity under that order is made. The court shall not
12 order restitution to be paid to a victim or victim's estate if
13 the victim or victim's estate has received or is to receive
14 compensation for that loss, and the court shall state on the
15 record with specificity the reasons for its action.

16 (9) Any amount paid to a victim or victim's estate under an
17 order of restitution shall be set off against any amount later
18 recovered as compensatory damages by the victim or the victim's
19 estate in any federal or state civil proceeding and shall reduce
20 the amount payable to a victim or a victim's estate by an award
21 from the crime victim services commission made after an order of
22 restitution under this section.

23 (10) If not otherwise provided by the court under this
24 subsection, restitution shall be made immediately. However, the
25 court may require that the juvenile make restitution under this
26 section within a specified period or in specified installments.

27 (11) If the juvenile is placed on probation, any restitution

1 ordered under this section shall be a condition of that
2 probation. The court may revoke probation if the juvenile fails
3 to comply with the order and if the juvenile has not made a good
4 faith effort to comply with the order. In determining whether to
5 revoke probation, the court shall consider the juvenile's
6 employment status, earning ability, and financial resources, the
7 willfulness of the juvenile's failure to pay, and any other
8 special circumstances that may have a bearing on the juvenile's
9 ability to pay.

10 (12) ~~—A—~~ **Subject to subsection (18),** a juvenile who is
11 required to pay restitution and who is not in willful default of
12 the payment of the restitution may at any time petition the court
13 to modify the method of payment. If the court determines that
14 payment under the order will impose a manifest hardship on the
15 juvenile or his or her immediate family, and if the court also
16 determines that modifying the method of payment will not impose a
17 manifest hardship on the victim, the court may modify the method
18 of payment.

19 (13) An order of restitution entered under this section
20 remains effective until it is satisfied in full. An order of
21 restitution is a judgment and lien against all property of the
22 individual ordered to pay restitution for the amount specified in
23 the order of restitution. The lien may be recorded as provided
24 by law. An order of restitution may be enforced by the
25 prosecuting attorney, a victim, a victim's estate, or any other
26 person or entity named in the order to receive the restitution in
27 the same manner as a judgment in a civil action or a lien.

1 (14) Notwithstanding any other provision of this section, a
2 juvenile shall not be detained or imprisoned for a violation of
3 probation or parole or otherwise for failure to pay restitution
4 as ordered under this section unless the court determines that
5 the juvenile has the resources to pay the ordered restitution and
6 has not made a good faith effort to do so.

7 (15) If the court determines that the juvenile is or will be
8 unable to pay all of the restitution ordered, after notice to the
9 juvenile's parent or parents and an opportunity for the parent or
10 parents to be heard, the court may order the parent or parents
11 having supervisory responsibility for the juvenile at the time of
12 the acts upon which an order of restitution is based to pay any
13 portion of the restitution ordered that is outstanding. An order
14 under this subsection does not relieve the juvenile of his or her
15 obligation to pay restitution as ordered, but the amount owed by
16 the juvenile shall be offset by any amount paid by his or her
17 parent. As used in this subsection, "parent" does not include a
18 foster parent.

19 (16) If the court orders a parent to pay restitution under
20 subsection (15), the court shall take into account the parent's
21 financial resources and the burden that the payment of
22 restitution will impose, with due regard to any other moral or
23 legal financial obligations the parent may have. If a parent is
24 required to pay restitution under subsection (15), the court
25 shall provide for payment to be made in specified installments
26 and within a specified period of time.

27 (17) A parent who has been ordered to pay restitution under

1 subsection (15) may petition the court for a modification of the
2 amount of restitution owed by the parent or for a cancellation of
3 any unpaid portion of the parent's obligation. The court shall
4 cancel all or part of the parent's obligation due if the court
5 determines that payment of the amount due will impose a manifest
6 hardship on the parent and if the court also determines that
7 modifying the method of payment will not impose a manifest
8 hardship on the victim.

9 (18) In each case in which payment of restitution is ordered
10 as a condition of probation, the court ~~may~~ **shall** order any
11 employed juvenile to execute a wage assignment to pay the
12 restitution. The juvenile caseworker or probation officer
13 assigned to the case shall review the case not less than twice
14 yearly to ensure that restitution is being paid as ordered. If
15 the restitution was ordered to be made within a specific period
16 of time, the juvenile caseworker or probation officer assigned to
17 the case shall review the case at the end of the specific period
18 of time to determine if the restitution has been paid in full.
19 The final review shall be conducted not less than 60 days before
20 the probationary period expires. If the juvenile caseworker or
21 probation officer determines at any review the restitution is not
22 being paid as ordered, the juvenile caseworker or probation
23 officer shall file a written report of the violation with the
24 court on a form prescribed by the state court administrative
25 office or shall petition the court for a probation violation.
26 The report or petition shall include a statement of the amount of
27 the arrearage, and any reasons for the arrearage known by the

1 juvenile caseworker or probation officer. The juvenile
2 caseworker or probation officer shall immediately provide a copy
3 of the report or petition to the prosecuting attorney. If a
4 petition or motion is filed or other proceedings are initiated to
5 enforce payment of restitution and the court determines that
6 restitution is not being paid or has not been paid as ordered by
7 the court, the court shall promptly take action necessary to
8 compel compliance.

9 (19) If the court determines that an individual who is
10 ordered to pay restitution under this section is remanded to the
11 jurisdiction of the department of corrections, the court shall
12 provide a copy of the order of restitution to the department of
13 corrections when the court determines that the individual is
14 remanded to the department's jurisdiction.

15 (20) The court shall not impose a fee on a victim, victim's
16 estate, or prosecuting attorney for enforcing an order of
17 restitution.

18 (21) If a person or entity entitled to restitution cannot be
19 located, ~~or~~ refuses to claim ~~that~~ **the** restitution within 2
20 years after the date on which he or she could have claimed the
21 restitution, **refuses to accept the restitution, or cannot claim**
22 **the restitution to which he or she would be entitled except for a**
23 **provision of law, including a provision abolishing tort**
24 **liability**, the restitution paid to that person or entity shall be
25 deposited in the crime victim's rights fund created under section
26 4 of 1989 PA 196, MCL 780.904, or its successor fund. However, a
27 person or entity entitled to that restitution may claim that

1 restitution any time by applying to the court that originally
2 ordered and collected it. The court shall notify the crime
3 victim services commission of the application and the commission
4 shall approve a reduction in the court's revenue transmittal to
5 the crime victim rights fund equal to the restitution owed to the
6 person or entity. The court shall use the reduction to reimburse
7 that restitution to the person or entity.

8 Sec. 44a. (1) If a juvenile is subject to any combination
9 of fines, costs, restitution, assessments, probation or parole
10 supervision fees, or other payments arising out of the same
11 criminal proceeding, money collected from that juvenile for the
12 payment of fines, costs, restitution, assessments, probation or
13 parole supervision fees, or other payments **ordered to be paid in**
14 **that proceeding** shall be allocated as provided in this section.
15 **Unless full restitution and all assessments have been paid in a**
16 **proceeding, money collected for the payment of fines, costs,**
17 **restitution, assessments, probation or parole supervision fees,**
18 **or other payments in that proceeding shall not be applied to the**
19 **payment of fines, costs, probation or parole supervision fees, or**
20 **other payments ordered in another case or proceeding.**

21 (2) Except as otherwise provided in this subsection, if a
22 juvenile is subject to payment of victim payments and any
23 combination of other fines, costs, assessments, probation or
24 parole supervision fees, or other payments, 50% of each payment
25 collected by the court from that juvenile shall be applied to
26 payment of victim payments, and the balance shall be applied to
27 payment of fines, costs, supervision fees, and other assessments

1 or payments. If any fines, costs, supervision fees, or other
2 assessments or payments remain unpaid after all of the victim
3 payments have been paid, any additional money collected shall be
4 applied to payment of those fines, costs, supervision fees, or
5 other assessments or payments. If any victim payments remain
6 unpaid after all of the fines, costs, supervision fees, or other
7 assessments or payments have been paid, any additional money
8 collected shall be applied toward payment of those victim
9 payments.

10 (3) In cases involving prosecutions for violations of state
11 law, money allocated under subsection (2) for payment of fines,
12 costs, probation and parole supervision fees, and assessments or
13 payments other than victim payments shall be applied in the
14 following order of priority:

15 (a) Payment of the minimum state cost prescribed by section
16 1j of chapter IX of the code of criminal procedure, 1927 PA 175,
17 MCL 769.1j.

18 (b) Payment of other costs.

19 (c) Payment of fines.

20 (d) Payment of probation or parole supervision fees.

21 (e) Payment of assessments and other payments, including
22 reimbursement to third parties who reimbursed a victim for his or
23 her loss.

24 (4) In cases involving prosecutions for violations of local
25 ordinances, money allocated under subsection (2) for payment of
26 fines, costs, and assessments or payments other than victim
27 payments shall be applied in the following order of priority:

1 (a) Payment of the minimum state cost prescribed by section
2 1j of chapter IX of the code of criminal procedure, 1927 PA 175,
3 MCL 769.1j.

4 (b) Payment of fines and other costs.

5 (c) Payment of assessments and other payments.

6 (5) As used in this section, "victim payment" means
7 restitution ordered to be paid to the victim ~~—to—~~ or the
8 victim's estate, but not to a person who reimbursed the victim
9 for his or her loss; or an assessment ordered under section 5 of
10 1989 PA 196, MCL 780.905.

11 Sec. 45. (1) In determining the amount of restitution to
12 order under section 44, the court shall consider the amount of
13 the loss sustained by any victim as a result of the offense. In
14 determining whether to order the juvenile's supervisory parent to
15 pay restitution under section 44(15), the court shall consider
16 the financial resources of the juvenile's supervisory parent and
17 the other factors specified in section 44(16).

18 (2) The court may order the person preparing a report for the
19 purpose of disposition to obtain information pertaining to the
20 factors set forth in subsection (1). That person shall include
21 the information collected in the disposition report or in a
22 separate report, as the court directs.

23 (3) The court shall disclose to the juvenile, the juvenile's
24 supervisory parent, and the prosecuting attorney all portions of
25 the disposition or other report pertaining to the matters
26 described in subsection (1).

27 (4) Any dispute as to the proper amount or type of

1 restitution shall be resolved by the court by a preponderance of
2 the evidence. The burden of demonstrating the amount of the loss
3 sustained by a victim as a result of the offense shall be on the
4 prosecuting attorney. The burden of demonstrating the financial
5 resources of the juvenile's supervisory parent and the other
6 factors specified in section 44(16) shall be on the supervisory
7 parent.

8 **(5) The prosecuting attorney may conduct an investigation and**
9 **obtain information, with or without the formal assistance of the**
10 **court, pertaining to the amounts of loss described in subsection**
11 **(1).**

12 Sec. 46. (1) Upon the request of ~~the~~ a victim, ~~the~~ a
13 prosecuting attorney shall notify the victim **if 1 or more** of the
14 following **occur**:

15 (a) ~~That the juvenile filed~~ **The juvenile files** an appeal of
16 his or her adjudication, conviction, disposition, or sentence or
17 the prosecuting attorney ~~filed~~ **files** an appeal.

18 (b) ~~Whether the juvenile has been~~ **The juvenile is** ordered
19 released on bail or other recognizance pending the disposition of
20 ~~the~~ **an** appeal. If the prosecuting attorney is notified that
21 the juvenile has been ordered released on bail or other
22 recognizance pending disposition of the appeal, the prosecuting
23 attorney shall use any means reasonably calculated to give the
24 victim notice of that order within 24 hours after the prosecuting
25 attorney is notified of the order.

26 (c) ~~The time and place of any appellate~~ **Appellate** court
27 proceedings **are scheduled. The prosecuting attorney shall give**

1 **the victim notice of the time and place** and any changes in the
2 time or place of those proceedings.

3 (d) ~~The result of the~~ **A decision or order is entered on an**
4 appeal. If the disposition or conviction is ordered reversed,
5 the sentence is vacated, the case is remanded for a new trial, or
6 the prosecuting attorney's appeal is denied, and if the
7 prosecuting attorney has filed the appropriate notice with the
8 appellate court, the appellate court shall expedite delivery of
9 the relevant document to the prosecuting attorney's office by any
10 means reasonably calculated to give the prosecuting attorney
11 prompt notice. The prosecuting attorney shall use any means
12 reasonably calculated to give the victim notice of that order
13 within 24 hours after the prosecuting attorney is notified of the
14 order.

15 (2) If ~~the~~ **a** prosecuting attorney is not successful in
16 notifying the victim of an event described in subsection (1)
17 within the ~~period set forth~~ **time prescribed** in that subsection,
18 the prosecuting attorney shall notify the victim of that event as
19 soon as possible by any means reasonably calculated to give the
20 victim prompt actual notice.

21 (3) ~~Upon the request of the victim, the~~ **A** prosecuting
22 attorney shall provide ~~the~~ **a** victim with a brief explanation in
23 plain English of the appeal process, including the possible
24 dispositions.

25 (4) If ~~the~~ **a** case is returned to the court for further
26 proceedings or a new trial, the victim has the same rights as
27 previously requested during the proceedings that led to the

1 appeal.

2 Sec. 47. (1) A juvenile adjudicated for an offense shall
3 not derive any profit from the sale of his or her recollections,
4 thoughts, ~~and~~ or feelings with regard to the offense committed
5 by that juvenile, **or from the sale of the juvenile's memorabilia**
6 **or property, the value of which has been enhanced or increased by**
7 **the person's notoriety,** until the victim receives any restitution
8 or compensation ordered for him or her against the juvenile, ~~and~~
9 expenses of detention are ~~recovered as provided in~~ **paid under**
10 subsection (3), ~~and until~~ **and any balance in** the escrow account
11 created under subsection (2) is ~~terminated~~ **paid under**
12 subsection (4).

13 (2) Upon the disposition of a juvenile offense involving a
14 victim, and after notice to ~~any interested party~~ **all interested**
15 **parties,** an attorney for the county in which the disposition
16 occurred or the attorney general may petition the court in which
17 the disposition occurred to order that **the** juvenile forfeit all
18 or any part of proceeds received or to be received by the
19 juvenile ~~—~~ or the juvenile's representatives or assignees ~~—~~
20 from contracts relating to the depiction of the offense or the
21 juvenile's recollections, thoughts, or feelings about the
22 offense, in books, magazines, media entertainment, or live
23 entertainment, ~~as provided in this section~~ **from the sale of**
24 **memorabilia of the offense, or from the sale of property of the**
25 **juvenile.** The proceeds shall be held in escrow for a period of
26 not more than 5 years.

27 (3) During the existence of ~~the~~ **an** escrow account **created**

1 **under subsection (2)**, proceeds in the account shall be
2 distributed in the following priority to satisfy the following:

3 (a) An order of restitution entered under ~~sections 44 and~~
4 ~~45~~ **section 44**.

5 (b) Any civil judgment in favor of the victim against ~~that~~
6 **the** juvenile.

7 (c) Any reimbursement for detention ordered under section 18
8 of chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
9 ~~section 712A.18 of the Michigan Compiled Laws~~ **the probate code**
10 **of 1939, 1939 PA 288, MCL 712A.18**.

11 (4) ~~The~~ **A** balance remaining in ~~the~~ **an** escrow account
12 **created under subsection (2)** at the end of the escrow period
13 shall be paid to the crime victim's rights ~~assessment~~ fund
14 **created under section 4 of 1989 PA 196, MCL 780.904**.

15 Sec. 61. (1) Except as otherwise defined in this article,
16 as used in this article:

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

18 (i) A violation of section 81 of the Michigan penal code,
19 1931 PA 328, MCL 750.81, assault and battery, including domestic
20 violence.

21 (ii) A violation of section 81a of the Michigan penal code,
22 1931 PA 328, MCL 750.81a, assault; infliction of serious injury,
23 including aggravated domestic violence.

24 (iii) A violation of section 115 of the Michigan penal code,
25 1931 PA 328, MCL 750.115, breaking and entering or illegal
26 entry.

27 (iv) A violation of section 136b(6) of the Michigan penal

1 code, 1931 PA 328, MCL 750.136b, child abuse in the fourth
2 degree.

3 (v) A violation of section 145a of the Michigan penal code,
4 1931 PA 328, MCL 750.145a, enticing a child for immoral
5 purposes.

6 (vi) A violation of section 234 of the Michigan penal code,
7 1931 PA 328, MCL 750.234, discharge of a firearm intentionally
8 aimed at a person.

9 (vii) A violation of section 235 of the Michigan penal code,
10 1931 PA 328, MCL 750.235, discharge of an intentionally aimed
11 firearm resulting in injury.

12 (viii) A violation of section 335a of the Michigan penal
13 code, 1931 PA 328, MCL 750.335a, indecent exposure.

14 (ix) A violation of section 617a of the Michigan vehicle
15 code, 1949 PA 300, MCL 257.617a, leaving the scene of a personal
16 injury accident.

17 (x) A violation of section 625 of the Michigan vehicle code,
18 1949 PA 300, MCL 257.625, operating a vehicle while under the
19 influence of or impaired by intoxicating liquor or a controlled
20 substance, or with an unlawful blood alcohol content, if the
21 violation involves an accident resulting in damage to another
22 individual's property or physical injury or death to another
23 individual.

24 (xi) Selling or furnishing alcoholic liquor to an individual
25 less than 21 years of age in violation of section 701 of the
26 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,
27 if the violation results in physical injury or death to any

1 individual.

2 (xii) A violation of section 411h of the Michigan penal code,
3 1931 PA 328, MCL 750.411h, stalking.

4 (xiii) A violation of section 80176(1) or (3) of the natural
5 resources and environmental protection act, 1994 PA 451, MCL
6 324.80176, operating a vessel while under the influence of or
7 impaired by intoxicating liquor or a controlled substance, or
8 with an unlawful blood alcohol content, if the violation involves
9 an accident resulting in damage to another individual's property
10 or physical injury or death to any individual.

11 (xiv) A violation of section 145 of the Michigan penal code,
12 1931 PA 328, MCL 750.145, contributing to the delinquency of a
13 minor.

14 (xv) If the violation results in a misdemeanor conviction, a
15 violation of section 145d of the Michigan penal code, 1931 PA
16 328, MCL 750.145d, using the internet or a computer to make a
17 prohibited communication.

18 (xvi) ~~-(xiv)-~~ A violation of a local ordinance substantially
19 corresponding to a violation enumerated in subparagraphs (i) to
20 ~~-(xiii)-~~ (xv).

21 (xvii) ~~-(xv)-~~ A violation charged as a crime or serious
22 misdemeanor enumerated in subparagraphs (i) to ~~-(xiv)-~~ (xvi) but
23 subsequently reduced to or pleaded to as a misdemeanor. As used
24 in this subparagraph, "crime" means that term as defined in
25 section 2.

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

1 (c) "Final disposition" means the ultimate termination of the
2 criminal prosecution of a defendant including, but not limited
3 to, dismissal, acquittal, or imposition of a sentence by the
4 court.

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

7 (e) "Prisoner" means a person who has been convicted and
8 sentenced to imprisonment for having committed a serious
9 misdemeanor against a victim.

10 (f) "Prosecuting attorney" means the prosecuting attorney for
11 a county, an assistant prosecuting attorney for a county, the
12 attorney general, the deputy attorney general, an assistant
13 attorney general, a special prosecuting attorney, or, in
14 connection with the prosecution of an ordinance violation, an
15 attorney for the political subdivision that enacted the ordinance
16 upon which the violation is based.

17 (g) "Victim" means any of the following:

18 (i) An individual who suffers direct or threatened physical,
19 financial, or emotional harm as a result of the commission of a
20 serious misdemeanor, except as provided in subparagraph (ii),
21 (iii), or (iv).

22 (ii) The following individuals other than the defendant if
23 the victim is deceased:

24 (A) The spouse of the deceased victim.

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

27 (C) A parent of a deceased victim if sub-subparagraphs (A)

1 and (B) do not apply.

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

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

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

9 (iii) A parent, guardian, or custodian of a victim who is
10 less than 18 years of age and who is neither the defendant nor
11 incarcerated, if the parent, guardian, or custodian so chooses.

12 (iv) A parent, guardian, or custodian of a victim who is so
13 mentally incapacitated that he or she cannot meaningfully
14 understand or participate in the legal process if he or she is
15 not the defendant and is not incarcerated.

16 (2) If a victim as defined in subsection (1)(g)(i) is
17 physically or emotionally unable to exercise the privileges and
18 rights under this article, the victim may designate his or her
19 spouse, child 18 years of age or older, parent, sibling, or
20 grandparent or any other person 18 years of age or older who is
21 neither the defendant nor incarcerated to act in his or her place
22 while the physical or emotional disability continues. The victim
23 shall provide the prosecuting attorney with the name of the
24 person who is to act in place of the victim. During the physical
25 or emotional disability, notices to be provided under this
26 article to the victim shall continue to be sent only to the
27 victim.

1 (3) An individual who is charged with a serious misdemeanor,
2 a crime as defined in section 2, or an offense as defined in
3 section 31 arising out of the same transaction from which the
4 charge against the defendant arose is not eligible to exercise
5 the privileges and rights established for victims under this
6 article.

7 (4) An individual who is incarcerated is not eligible to
8 exercise the privileges and rights established for victims under
9 this article except that he or she may submit a written statement
10 to the court for consideration at sentencing.

11 Sec. 76. (1) For purposes of this section only:

12 (a) "Misdemeanor" means a violation of a law of this state or
13 a local ordinance that is punishable by imprisonment for not more
14 than 1 year or a fine that is not a civil fine, but that is not a
15 felony.

16 (b) "Victim" means an individual who suffers direct or
17 threatened physical, financial, or emotional harm as a result of
18 the commission of a misdemeanor. For purposes of subsections
19 (2), (3), (6), (8), (9), and 13, victim includes a sole
20 proprietorship, partnership, corporation, association,
21 governmental entity, or any other legal entity that suffers
22 direct physical or financial harm as a result of a misdemeanor.

23 (2) Except as provided in subsection (8), when sentencing a
24 defendant convicted of a misdemeanor, the court shall order, in
25 addition to or in lieu of any other penalty authorized by law or
26 in addition to any other penalty required by law, that the
27 defendant make full restitution to any victim of the defendant's

1 course of conduct that gives rise to the conviction or to the
2 victim's estate. **For an offense that is resolved by assignment**
3 **of the defendant to youthful trainee status, by a deferred**
4 **sentence, or in another way that is not an unconditional**
5 **dismissal but does not result in a conviction, the court shall**
6 **order the restitution required under this section.**

7 (3) If a misdemeanor results in damage to or loss or
8 destruction of property of a victim of the misdemeanor or results
9 in the seizure or impoundment of property of a victim of the
10 misdemeanor, the order of restitution may require that the
11 defendant do 1 or more of the following, as applicable:

12 (a) Return the property to the owner of the property or to a
13 person designated by the owner.

14 (b) If return of the property under subdivision (a) is
15 impossible, impractical, or inadequate, pay an amount equal to
16 the greater of subparagraph (i) or (ii), less the value,
17 determined as of the date the property is returned, of that
18 property or any part of the property that is returned:

19 (i) The value of the property on the date of the damage,
20 loss, or destruction.

21 (ii) The value of the property on the date of sentencing.

22 (c) Pay the costs of the seizure or impoundment, or both.

23 (4) If a misdemeanor results in physical or psychological
24 injury to a victim, the order of restitution may require that the
25 defendant do 1 or more of the following, as applicable:

26 (a) Pay an amount equal to the reasonably determined cost of
27 medical and related professional services and devices actually

1 incurred and reasonably expected to be incurred relating to
2 physical and psychological care.

3 (b) Pay an amount equal to the reasonably determined cost of
4 physical and occupational therapy and rehabilitation actually
5 incurred and reasonably expected to be incurred.

6 (c) Reimburse the victim or the victim's estate for after-tax
7 income loss suffered by the victim as a result of the
8 misdemeanor.

9 (d) Pay an amount equal to the reasonably determined cost of
10 psychological and medical treatment for members of the victim's
11 family actually incurred and reasonably expected to be incurred
12 as a result of the misdemeanor.

13 (e) Pay an amount equal to the reasonably determined costs of
14 homemaking and child care expenses actually incurred and
15 reasonably expected to be incurred as a result of the misdemeanor
16 or, if homemaking or child care is provided without compensation
17 by a relative, friend, or any other person, an amount equal to
18 the costs that would reasonably be incurred as a result of the
19 misdemeanor for that homemaking and child care, based on the
20 rates in the area for comparable services.

21 (f) Pay an amount equal to the cost of actual funeral and
22 related services.

23 (g) If the deceased victim could be claimed as a dependent by
24 his or her parent or guardian on the parent's or guardian's
25 federal, state, or local income tax returns, pay an amount equal
26 to the loss of the tax deduction or tax credit. The amount of
27 reimbursement shall be estimated for each year the victim could

1 reasonably be claimed as a dependent.

2 (5) If a crime resulting in bodily injury also results in the
3 death of a victim or serious impairment of a body function of a
4 victim, the court may order up to 3 times the amount of
5 restitution otherwise allowed under this section. As used in
6 this subsection, "serious impairment of a body function of a
7 victim" includes, but is not limited to, 1 or more of the
8 following:

- 9 (a) Loss of a limb or use of a limb.
- 10 (b) Loss of a hand or foot or use of a hand or foot.
- 11 (c) Loss of an eye or use of an eye or ear.
- 12 (d) Loss or substantial impairment of a bodily function.
- 13 (e) Serious visible disfigurement.
- 14 (f) A comatose state that lasts for more than 3 days.
- 15 (g) Measurable brain damage or mental impairment.
- 16 (h) A skull fracture or other serious bone fracture.
- 17 (i) Subdural hemorrhage or subdural hematoma.
- 18 (j) Loss of a body organ.

19 (6) If the victim or victim's estate consents, the order of
20 restitution may require that the defendant make restitution in
21 services in lieu of money.

22 (7) If the victim is deceased, the court shall order that the
23 restitution be made to the victim's estate.

24 (8) The court shall order restitution to the crime victim
25 services commission or to any individuals, partnerships,
26 corporations, associations, governmental entities, or other legal
27 entities that have compensated the victim or the victim's estate

1 for a loss incurred by the victim to the extent of the
2 compensation paid for that loss. The court shall also order
3 restitution for the costs of services provided to persons or
4 entities that have provided services to the victim as a result of
5 the misdemeanor. Services that are subject to restitution under
6 this subsection include, but are not limited to, shelter, food,
7 clothing, and transportation. However, an order of restitution
8 shall require that all restitution to a victim or victim's estate
9 under the order be made before any restitution to any other
10 person or entity under that order is made. The court shall not
11 order restitution to be paid to a victim or victim's estate if
12 the victim or victim's estate has received or is to receive
13 compensation for that loss, and the court shall state on the
14 record with specificity the reasons for its action.

15 (9) Any amount paid to a victim or victim's estate under an
16 order of restitution shall be set off against any amount later
17 recovered as compensatory damages by the victim or the victim's
18 estate in any federal or state civil proceeding and shall reduce
19 the amount payable to a victim or a victim's estate by an award
20 from the crime victim services commission made after an order of
21 restitution under this section.

22 (10) If not otherwise provided by the court under this
23 subsection, restitution shall be made immediately. However, the
24 court may require that the defendant make restitution under this
25 section within a specified period or in specified installments.

26 (11) If the defendant is placed on probation or the court
27 imposes a conditional sentence as provided in section 3 of

1 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
2 769.3, any restitution ordered under this section shall be a
3 condition of that probation or sentence. The court may revoke
4 probation or impose imprisonment under the conditional sentence
5 if the defendant fails to comply with the order and if the
6 defendant has not made a good faith effort to comply with the
7 order. In determining whether to revoke probation or impose
8 imprisonment, the court shall consider the defendant's employment
9 status, earning ability, and financial resources, the willfulness
10 of the defendant's failure to pay, and any other special
11 circumstances that may have a bearing on the defendant's ability
12 to pay.

13 (12) ~~—A—~~ **Subject to subsection (15),** a defendant who is
14 required to pay restitution and who is not in willful default of
15 the payment of the restitution may at any time petition the
16 sentencing judge or his or her successor to modify the method of
17 payment. If the court determines that payment under the order
18 will impose a manifest hardship on the defendant or his or her
19 immediate family, and if the court also determines that modifying
20 the method of payment will not impose a manifest hardship on the
21 victim, the court may modify the method of payment.

22 (13) An order of restitution entered under this section
23 remains effective until it is satisfied in full. An order of
24 restitution is a judgment and lien against all property of the
25 defendant for the amount specified in the order of restitution.
26 The lien may be recorded as provided by law. An order of
27 restitution may be enforced by the prosecuting attorney, a

1 victim, a victim's estate, or any other person or entity named in
2 the order to receive restitution in the same manner as a judgment
3 in a civil action or a lien.

4 (14) Notwithstanding any other provision of this section, a
5 defendant shall not be imprisoned, jailed, or incarcerated for a
6 violation of probation or otherwise for failure to pay
7 restitution as ordered under this section unless the court
8 determines that the defendant has the resources to pay the
9 ordered restitution and has not made a good faith effort to do
10 so.

11 (15) In each case in which payment of restitution is ordered
12 as a condition of probation, the court ~~may~~ **shall** order any
13 employed defendant to execute a wage assignment to pay the
14 restitution. The probation officer assigned to the case shall
15 review the case not less than twice yearly to ensure that
16 restitution is being paid as ordered. If the restitution was
17 ordered to be made within a specific period of time, the
18 probation officer assigned to the case shall review the case at
19 the end of the specific period of time to determine if the
20 restitution has been paid in full. The final review shall be
21 conducted not less than 60 days before the probationary period
22 expires. If the probation officer determines at any review that
23 restitution is not being paid as ordered, the probation officer
24 shall file a written report of the violation with the court on a
25 form prescribed by the state court administrative office or shall
26 petition the court for a probation violation. The report or
27 petition shall include a statement of the amount of the arrearage

1 and any reasons for the arrearage known by the probation
2 officer. The probation officer shall immediately provide a copy
3 of the report or petition to the prosecuting attorney. If a
4 petition or motion is filed or other proceedings are initiated to
5 enforce payment of restitution and the court determines that
6 restitution is not being paid or has not been paid as ordered by
7 the court, the court shall promptly take action necessary to
8 compel compliance.

9 (16) If the court determines that a defendant who is ordered
10 to pay restitution under this section is remanded to the
11 jurisdiction of the department of corrections, the court shall
12 provide a copy of the order of restitution to the department of
13 corrections when the court determines that the defendant is
14 remanded to the department's jurisdiction.

15 (17) The court shall not impose a fee on a victim, victim's
16 estate, or prosecuting attorney for enforcing an order of
17 restitution.

18 (18) If a person or entity entitled to restitution cannot be
19 located, ~~or~~ refuses to claim ~~that~~ **the** restitution within 2
20 years after the date on which he or she could have claimed the
21 restitution, **refuses to accept the restitution, cannot claim the**
22 **restitution to which he or she would be entitled except for a**
23 **provision of law, including a provision abolishing tort**
24 **liability**, the restitution paid to that person or entity shall be
25 deposited in the crime victim's rights fund created under section
26 4 of 1989 PA 196, MCL 780.904, or its successor fund. However, a
27 person or entity entitled to that restitution may claim that

1 restitution any time by applying to the court that originally
2 ordered and collected it. The court shall notify the crime
3 victim services commission of the application and the commission
4 shall approve a reduction in the court's revenue transmittal to
5 the crime victim rights fund equal to the restitution owed to the
6 person or entity. The court shall use the reduction to reimburse
7 that restitution to the person or entity.

8 Sec. 76a. (1) If a person is subject to any combination of
9 fines, costs, restitution, assessments, probation or parole
10 supervision fees, or other payments arising out of the same
11 criminal proceeding, money collected from that person for the
12 payment of fines, costs, restitution, assessments, probation or
13 parole supervision fees, or other payments **ordered to be paid in**
14 **that proceeding** shall be allocated as provided in this section.
15 **Unless full restitution and all assessments have been paid in a**
16 **proceeding, money collected for the payment of fines, costs,**
17 **restitution, assessments, probation or parole supervision fees,**
18 **or other payments in that proceeding shall not be applied to the**
19 **payment of fines, costs, probation or parole supervision fees, or**
20 **other payments ordered in another case or proceeding.**

21 (2) Except as otherwise provided in this subsection, if a
22 person is subject to payment of victim payments and any
23 combination of other fines, costs, assessments, probation or
24 parole supervision fees, or other payments, 50% of each payment
25 collected by the court from that person shall be applied to
26 payment of victim payments, and the balance shall be applied to
27 payment of fines, costs, supervision fees, and other assessments

1 or payments. If any fines, costs, supervision fees, or other
2 assessments or payments remain unpaid after all of the victim
3 payments have been paid, any additional money collected shall be
4 applied to payment of those fines, costs, supervision fees, or
5 other assessments or payments. If any victim payments remain
6 unpaid after all of the fines, costs, supervision fees, or other
7 assessments or payments have been paid, any additional money
8 collected shall be applied toward payment of those victim
9 payments.

10 (3) In cases involving prosecutions for violations of state
11 law, money allocated under subsection (2) for payment of fines,
12 costs, probation and parole supervision fees, and assessments or
13 payments other than victim payments shall be applied in the
14 following order of priority:

15 (a) Payment of the minimum state cost prescribed by section
16 1j of chapter IX of the code of criminal procedure, 1927 PA 175,
17 MCL 769.1j.

18 (b) Payment of other costs.

19 (c) Payment of fines.

20 (d) Payment of probation or parole supervision fees.

21 (e) Payment of assessments and other payments, including
22 reimbursement to third parties who reimbursed a victim for his or
23 her loss.

24 (4) In cases involving prosecutions for violations of local
25 ordinances, money allocated under subsection (2) for payment of
26 fines, costs, and assessments or payments other than victim
27 payments shall be applied in the following order of priority:

1 (a) Payment of the minimum state cost prescribed by section
2 1j of chapter IX of the code of criminal procedure, 1927 PA 175,
3 MCL 769.1j.

4 (b) Payment of fines and other costs.

5 (c) Payment of assessments and other payments.

6 (5) As used in this section, "victim payment" means
7 restitution ordered to be paid to the victim ~~—, to~~ or the
8 victim's estate, but not to a person who reimbursed the victim
9 for his or her loss; or an assessment ordered under section 5 of
10 1989 PA 196, MCL 780.905.

11 Sec. 77. ~~Upon the request of a victim, the~~ A prosecuting
12 attorney shall, within 30 days after the final disposition of
13 ~~the~~ a case, notify the victim in writing of the final
14 disposition of the case.

15 Sec. 78. (1) Upon the request of ~~the~~ a victim, ~~the~~ a
16 prosecuting attorney shall notify the victim **if 1 or more** of the
17 following **occur**:

18 (a) ~~That the defendant~~ **The defendant files** an appeal of
19 his or her conviction or sentence or ~~that~~ the prosecuting
20 attorney ~~filed~~ **files** an appeal.

21 (b) ~~Whether the defendant has been~~ **The defendant is** ordered
22 released on bail or other recognizance pending the disposition of
23 ~~the~~ **an** appeal. If the prosecuting attorney is notified that
24 the defendant has been ordered released on bail or other
25 recognizance pending disposition of the appeal, the prosecuting
26 attorney shall use any means reasonably calculated to give the
27 victim notice of that order within 24 hours after the prosecuting

1 attorney is notified of the order.

2 (c) ~~The time and place of any appellate~~ **Appellate** court
3 proceedings **are scheduled. The prosecuting attorney shall give**
4 **the victim notice of the time and place** and any changes in the
5 time or place of those proceedings.

6 (d) ~~The result of the~~ **A decision or order is entered on an**
7 appeal. If the conviction is ordered reversed, the sentence is
8 vacated, the case is remanded for a new trial, or the prosecuting
9 attorney's appeal is denied, and if the prosecuting attorney has
10 filed the appropriate notice with the appellate court, the
11 appellate court shall expedite delivery of the relevant document
12 to the prosecuting attorney's office by any means reasonably
13 calculated to give the prosecuting attorney prompt notice. The
14 prosecuting attorney shall use any means reasonably calculated to
15 give the victim notice of that order within 24 hours after the
16 prosecuting attorney is notified of the order.

17 (2) If ~~the~~ **a** prosecuting attorney is not successful in
18 notifying ~~the~~ **a** victim of an event described in subsection (1)
19 within the ~~period set forth~~ **time prescribed** in that subsection,
20 the prosecuting attorney shall notify the victim of that event as
21 soon as possible by any means reasonably calculated to give the
22 victim prompt actual notice.

23 (3) ~~Upon the request of the victim, the~~ **A** prosecuting
24 attorney shall provide ~~the~~ **a** victim with a brief explanation in
25 plain English of the appeal process, including the possible
26 dispositions.

27 (4) If ~~the~~ **a** case is returned to the trial court for

1 further proceedings or a new trial, the victim has the same
2 rights as previously requested during the proceedings that led to
3 the appeal.

4 Sec. 81. (1) A person convicted of a serious misdemeanor
5 shall not derive any profit from the sale of his or her
6 recollections, thoughts, ~~and~~ or feelings with regard to the
7 offense committed by that person, **or from the sale of memorabilia**
8 **or property of the person**, until the victim receives any
9 restitution or compensation ordered for him or her against the
10 defendant, ~~and~~ expenses of incarceration are ~~recovered as~~
11 ~~provided in~~ **paid under** subsection (3), and ~~until~~ **any balance**
12 **in** the escrow account created under subsection (2) is
13 ~~terminated~~ **paid** under subsection (4).

14 (2) Upon the conviction of a defendant for a serious
15 misdemeanor involving a victim, and after notice to ~~any~~
16 ~~interested party~~ **all interested parties**, an attorney for the
17 county in which the conviction occurred or the attorney general
18 may petition the court in which the conviction occurred to order
19 that **the** defendant forfeit all or any part of proceeds received
20 or to be received by the defendant — or the defendant's
21 representatives or assignees — from contracts relating to the
22 depiction of the crime or the defendant's recollections,
23 thoughts, or feelings about the crime, in books, magazines, media
24 entertainment, or live entertainment, ~~as provided in this~~
25 ~~section~~ **from the sale of memorabilia of the crime, or from the**
26 **sale of property of the defendant, the value of which has been**
27 **enhanced or increased by the defendant's notoriety.** The proceeds

1 shall be held in escrow for a period of not more than 5 years.

2 (3) During the existence of ~~the~~ **an** escrow account **created**
3 **under subsection (2)**, proceeds in the account shall be
4 distributed in the following priority to satisfy the following:

5 (a) An order of restitution entered under section 76.

6 (b) Any civil judgment in favor of the victim against ~~that~~
7 **the** defendant.

8 (c) Any reimbursement ordered under the prisoner
9 reimbursement to the county act, ~~Act No. 118 of the Public Acts~~
10 ~~of 1984, being sections 801.81 to 801.93 of the Michigan Compiled~~
11 ~~Laws~~ **1984 PA 118, MCL 801.81 to 801.93**, or ordered under the
12 state correctional facility reimbursement act, ~~Act No. 253 of~~
13 ~~the Public Acts of 1935, being sections 800.401 to 800.406 of the~~
14 ~~Michigan Compiled Laws~~ **1935 PA 253, MCL 800.401 to 800.406**.

15 (4) ~~The~~ **A** balance remaining in ~~the~~ **an** escrow account
16 **created under subsection (2)** at the end of the escrow period
17 shall be paid to the crime victim's rights ~~assessment~~ fund
18 **created in section 4 of 1989 PA 196, MCL 780.904**.