

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4588**

A bill to amend 1985 PA 87, entitled  
"Crime victim's rights act,"  
by amending sections 1, 2, 6, 13a, 16, 16a, 18, 18a, 19, 20, 21,  
31, 44, 44a, 46, 47, 61, 61a, 65, 76, 76a, 78, and 81 (MCL 780.751,  
780.752, 780.756, 780.763a, 780.766, 780.766a, 780.768, 780.768a,  
780.769, 780.770, 780.771, 780.781, 780.794, 780.794a, 780.796,  
780.797, 780.811, 780.811a, 780.815, 780.826, 780.826a, 780.828,  
and 780.831), sections 2, 6, 13a, 16, 18a, 19, 21, 31, 44, 46, 61,  
65, 76, and 78 as amended by 2000 PA 503, sections 16a, 44a, and  
76a as amended by 2003 PA 98, sections 18, 47, and 81 as amended by  
1996 PA 562, and section 61a as added by 1993 PA 341, and by adding  
sections 17a, 19a, 46b, and 80a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 **"WILLIAM VAN REGENMORTER** crime victim's rights act".

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

5           (a) "County juvenile agency" means that term as defined in  
6 section 2 of the county juvenile agency act, 1998 PA 518, MCL  
7 45.622.

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

12           (c) "Defendant" means a person charged with, ~~or~~ convicted  
13 of, **OR FOUND NOT GUILTY BY REASON OF INSANITY OF** committing a crime  
14 against a victim.

15           (D) **"FACILITY", AS USED IN SECTIONS 6, 13A, 19A, AND 20 ONLY,**  
16 **AND NOT WITH REFERENCE TO A JUVENILE FACILITY, MEANS THAT TERM AS**  
17 **DEFINED IN SECTION 100B OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL**  
18 **330.1100B.**

19           (E) ~~(d)~~ "Final disposition" means the ultimate termination  
20 of the criminal prosecution of a defendant including, but not  
21 limited to, dismissal, acquittal, or imposition of sentence by the  
22 court.

23           (F) ~~(e)~~ "Juvenile" means a person within the jurisdiction  
24 of the circuit court under section 606 of the revised judicature  
25 act of 1961, 1961 PA 236, MCL 600.606.

26           (G) ~~(f)~~ "Juvenile facility" means a county facility,  
27 institution operated as an agency of the county or the family

1 division of circuit court, or an institution or agency described in  
2 the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to  
3 803.309, to which a juvenile has been committed or in which a  
4 juvenile is detained.

5 (H) "HOSPITAL" MEANS THAT TERM AS DEFINED IN SECTION 100B OF  
6 THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100B.

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

9 (J) ~~(h)~~ "Prisoner" means a person who has been convicted  
10 and sentenced to imprisonment or placement in a juvenile facility  
11 for having committed a crime or an act that would be a crime if  
12 committed by an adult against a victim.

13 (K) ~~(i)~~ "Prosecuting attorney" means the prosecuting  
14 attorney for a county, an assistant prosecuting attorney for a  
15 county, the attorney general, the deputy attorney general, an  
16 assistant attorney general, or a special prosecuting attorney.

17 (L) ~~(j)~~ "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 crime, except as provided in subparagraph (ii), (iii), or (iv).

21 (ii) The following individuals other than the defendant 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 of  
25 age or older and sub-subparagraph (A) does not apply.

26 (C) A parent of a deceased victim if sub-subparagraphs (A) and  
27 (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 (A)  
3 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 less  
9 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 process  
13 if he or she is neither the defendant nor incarcerated.

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

25 (3) An individual who is charged with a crime arising out of  
26 the same transaction from which the charge against the defendant  
27 arose is not eligible to exercise the privileges and rights

1 established for victims under this article.

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

6 Sec. 6. (1) Not later than 7 days after the defendant's  
7 arraignment for a crime, but not less than 24 hours before a  
8 preliminary examination, the prosecuting attorney shall give to  
9 each victim a written notice in plain English of each of the  
10 following:

11 (a) A brief statement of the procedural steps in the  
12 processing of a criminal case.

13 (b) A specific list of the rights and procedures under this  
14 article.

15 (c) A convenient means for the victim to notify the  
16 prosecuting attorney that the victim chooses to exercise his or her  
17 rights under this article.

18 (d) Details and eligibility requirements for compensation from  
19 the crime victim services commission under 1976 PA 223, MCL 18.351  
20 to 18.368.

21 (e) Suggested procedures if the victim is subjected to threats  
22 or intimidation.

23 (f) The person to contact for further information.

24 (2) If the victim requests, the prosecuting attorney shall  
25 give the victim notice of any scheduled court proceedings and any  
26 changes in that schedule.

27 (3) Before finalizing any negotiation that may result in a

1 dismissal, plea or sentence bargain, or pretrial diversion, the  
2 prosecuting attorney shall offer the victim the opportunity to  
3 consult with the prosecuting attorney to obtain the victim's views  
4 about the disposition of the prosecution for the crime, including  
5 the victim's views about dismissal, plea or sentence negotiations,  
6 and pretrial diversion programs.

7 (4) A victim who receives a notice under subsection (1) and  
8 who chooses to receive any notice or exercise any right under this  
9 article shall keep the following persons informed of the victim's  
10 current address and telephone number:

11 (a) The prosecuting attorney, until final disposition or  
12 completion of the appellate process, whichever occurs later.

13 (b) The department of corrections or the sheriff, as the  
14 prosecuting attorney directs, if the defendant is imprisoned.

15 (c) The ~~family independence agency~~ **DEPARTMENT OF HUMAN**  
16 **SERVICES** or county juvenile agency, as the prosecuting attorney  
17 directs, if the defendant is held in a juvenile facility.

18 **(D) THE HOSPITAL OR FACILITY, AS THE PROSECUTING ATTORNEY**  
19 **DIRECTS, IF THE DEFENDANT IS HOSPITALIZED IN OR ADMITTED TO A**  
20 **HOSPITAL OR A FACILITY.**

21 Sec. 13a. (1) When a defendant is sentenced to a term of  
22 imprisonment, ~~or~~ ordered to be placed in a juvenile facility, **OR**  
23 **HOSPITALIZED IN OR ADMITTED TO A HOSPITAL OR A FACILITY,** the  
24 prosecuting attorney shall provide the victim with a form the  
25 victim may submit to receive the notices provided for under section  
26 19, **19A,** 20, or 20a. The form shall include the address of the  
27 department of corrections, the sheriff, the ~~family independence~~

1 ~~agency, or~~ DEPARTMENT OF HUMAN SERVICES, the county juvenile  
2 agency, OR THE HOSPITAL OR FACILITY, as applicable, to which the  
3 form may be sent.

4 (2) IF THE DEFENDANT IS SENTENCED TO PROBATION, THE DEPARTMENT  
5 OF CORRECTIONS OR THE SHERIFF, AS APPLICABLE, SHALL NOTIFY THE  
6 VICTIM IF THE PROBATION IS REVOKED AND THE DEFENDANT IS SENTENCED  
7 TO THE DEPARTMENT OF CORRECTIONS OR TO JAIL FOR MORE THAN 90 DAYS.  
8 THE NOTICE SHALL INCLUDE A FORM THE VICTIM MAY SUBMIT TO THE  
9 DEPARTMENT OF CORRECTIONS OR THE SHERIFF TO RECEIVE NOTICES UNDER  
10 SECTION 19, 20, OR 20A.

11 (3) IF THE DEPARTMENT OF CORRECTIONS DETERMINES THAT A  
12 DEFENDANT WHO WAS, IN THE DEFENDANT'S JUDGMENT OF SENTENCE, NOT  
13 PROHIBITED FROM BEING OR PERMITTED TO BE PLACED IN THE SPECIAL  
14 ALTERNATIVE INCARCERATION UNIT ESTABLISHED UNDER SECTION 3 OF THE  
15 SPECIAL ALTERNATIVE INCARCERATION ACT, 1988 PA 287, MCL 798.13,  
16 MEETS THE ELIGIBILITY REQUIREMENTS OF SECTION 34A(2) AND (3) OF THE  
17 CORRECTIONS CODE OF 1953, 1953 PA 232, MCL 791.234A, THE DEPARTMENT  
18 OF CORRECTIONS SHALL NOTIFY THE VICTIM, IF THE VICTIM HAS SUBMITTED  
19 A WRITTEN REQUEST FOR NOTIFICATION UNDER SECTION 19, OF THE  
20 PROPOSED PLACEMENT OF THE DEFENDANT IN THE SPECIAL ALTERNATIVE  
21 INCARCERATION UNIT NOT LATER THAN 30 DAYS BEFORE PLACEMENT IS  
22 INTENDED TO OCCUR. IN MAKING THE DECISION ON WHETHER OR NOT TO  
23 OBJECT TO THE PLACEMENT OF THE DEFENDANT IN A SPECIAL ALTERNATIVE  
24 INCARCERATION UNIT AS REQUIRED BY SECTION 34A(4) OF THE CORRECTIONS  
25 CODE OF 1953, 1953 PA 232, MCL 791.234A, THE SENTENCING JUDGE OR  
26 THE JUDGE'S SUCCESSOR SHALL REVIEW AN IMPACT STATEMENT SUBMITTED BY  
27 THE VICTIM UNDER SECTION 14.

1           Sec. 16. (1) ~~For purposes of~~ **AS USED IN** this section only,  
2 "victim" means an individual who suffers direct or threatened  
3 physical, financial, or emotional harm as a result of the  
4 commission of a crime. ~~For purposes of~~ **AS USED IN** subsections  
5 (2), (3), (6), (8), (9), and (13) **ONLY**, victim includes a sole  
6 proprietorship, partnership, corporation, association, governmental  
7 entity, or any other legal entity that suffers direct physical or  
8 financial harm as a result of a crime.

9           (2) Except as provided in subsection (8), when sentencing a  
10 defendant convicted of a crime, the court shall order, in addition  
11 to or in lieu of any other penalty authorized by law or in addition  
12 to any other penalty required by law, that the defendant make full  
13 restitution to any victim of the defendant's course of conduct that  
14 gives rise to the conviction or to the victim's estate. **FOR AN**  
15 **OFFENSE THAT IS RESOLVED BY ASSIGNMENT OF THE DEFENDANT TO YOUTHFUL**  
16 **TRAINEE STATUS, BY A DELAYED SENTENCE OR DEFERRED JUDGMENT OF**  
17 **GUILT, OR IN ANOTHER WAY THAT IS NOT AN ACQUITTAL OR UNCONDITIONAL**  
18 **DISMISSAL, THE COURT SHALL ORDER THE RESTITUTION REQUIRED UNDER**  
19 **THIS SECTION.**

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

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

27           (b) If return of the property under subdivision (a) is

1 impossible, impractical, or inadequate, pay an amount equal to the  
2 greater of subparagraph (i) or (ii), less the value, determined as of  
3 the date the property is returned, of that property or any part of  
4 the property that is returned:

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

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

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

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

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

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

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

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

25 (e) Pay an amount equal to the reasonably determined costs of  
26 homemaking and child care expenses actually incurred and reasonably  
27 expected to be incurred as a result of the crime or, if homemaking

1 or child care is provided without compensation by a relative,  
2 friend, or any other person, an amount equal to the costs that  
3 would reasonably be incurred as a result of the crime for that  
4 homemaking and child care, based on the rates in the area for  
5 comparable services.

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

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

14 **(H) PAY AN AMOUNT EQUAL TO INCOME ACTUALLY LOST BY THE SPOUSE,**  
15 **PARENT, SIBLING, CHILD, OR GRANDPARENT OF THE VICTIM BECAUSE THE**  
16 **FAMILY MEMBER LEFT HIS OR HER EMPLOYMENT, TEMPORARILY OR**  
17 **PERMANENTLY, TO CARE FOR THE VICTIM BECAUSE OF THE INJURY.**

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

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

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

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

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

1 (e) Serious visible disfigurement.

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

3 (g) Measurable brain damage or mental impairment.

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

5 (i) Subdural hemorrhage or subdural hematoma.

6 (j) Loss of a body organ.

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

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

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

1 the record with specificity the reasons for its action.

2 (9) Any amount paid to a victim or victim's estate under an  
3 order of restitution shall be set off against any amount later  
4 recovered as compensatory damages by the victim or the victim's  
5 estate in any federal or state civil proceeding and shall reduce  
6 the amount payable to a victim or a victim's estate by an award  
7 from the crime victim services commission made after an order of  
8 restitution under this section.

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

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

27 (12) ~~A~~ **SUBJECT TO SUBSECTION (18), A** defendant who is

1 required to pay restitution and who is not in willful default of  
2 the payment of the restitution may at any time petition the  
3 sentencing judge or his or her successor to modify the method of  
4 payment. If the court determines that payment under the order will  
5 impose a manifest hardship on the defendant or his or her immediate  
6 family, and if the court also determines that modifying the method  
7 of payment will not impose a manifest hardship on the victim, the  
8 court may modify the method of payment.

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

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

25 (15) If the court determines that a juvenile is or will be  
26 unable to pay all of the restitution ordered, after notice to the  
27 juvenile's parent or parents and an opportunity for the parent or

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

9 (a) "Juvenile" means a person within the court's jurisdiction  
10 under section 2d or 4 of chapter XIIIA of the probate code of 1939,  
11 1939 PA 288, MCL 712A.2d and 712A.4.

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

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

21 (17) A parent who has been ordered to pay restitution under  
22 subsection (15) may petition the court for a modification of the  
23 amount of restitution owed by the parent or for a cancellation of  
24 any unpaid portion of the parent's obligation. The court shall  
25 cancel all or part of the parent's obligation due if the court  
26 determines that payment of the amount due will impose a manifest  
27 hardship on the parent and if the court also determines that

1 modifying the method of payment will not impose a manifest hardship  
2 on the victim.

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

1 court shall promptly take action necessary to compel compliance.

2 (19) If a defendant who is ordered to pay restitution under  
3 this section is remanded to the jurisdiction of the department of  
4 corrections, the court shall provide a copy of the order of  
5 restitution to the department of corrections when the defendant is  
6 remanded to the department's jurisdiction.

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

10 (21) If a person or entity entitled to restitution **UNDER THIS**  
11 **SECTION** cannot be located, ~~or~~ refuses to claim ~~that~~ **THE**  
12 restitution within 2 years after the date on which he or she could  
13 have claimed the restitution, **OR REFUSES TO ACCEPT THE RESTITUTION,**  
14 the restitution ~~paid~~ to **WHICH** that person or entity **IS ENTITLED**  
15 shall be deposited in the crime victim's rights fund created under  
16 section 4 of 1989 PA 196, MCL 780.904, or its successor fund.  
17 However, a person or entity entitled to that restitution may claim  
18 that restitution any time by applying to the court that originally  
19 ordered and collected it. The court shall notify the crime victim  
20 services commission of the application and the commission shall  
21 approve a reduction in the court's revenue transmittal to the crime  
22 victim rights fund equal to the restitution owed to the person or  
23 entity. The court shall use the reduction to reimburse that  
24 restitution to the person or entity.

25 **(22) THE COURT MAY AMEND AN ORDER OF RESTITUTION ENTERED UNDER**  
26 **THIS SECTION ON A MOTION BY THE PROSECUTING ATTORNEY, THE VICTIM,**  
27 **OR THE DEFENDANT BASED UPON NEW INFORMATION RELATED TO THE INJURY,**

1 DAMAGES, OR LOSS FOR WHICH THE RESTITUTION WAS ORDERED.

2 (23) A COURT THAT RECEIVES NOTICE THAT A DEFENDANT WHO HAS AN  
3 OBLIGATION TO PAY RESTITUTION UNDER THIS SECTION HAS DECLARED  
4 BANKRUPTCY SHALL FORWARD A COPY OF THAT NOTICE TO THE PROSECUTING  
5 ATTORNEY. THE PROSECUTING ATTORNEY SHALL FORWARD THE NOTICE TO THE  
6 VICTIM AT THE VICTIM'S LAST KNOWN ADDRESS.

7 (24) IF THE VICTIM IS A MINOR, THE ORDER OF RESTITUTION SHALL  
8 REQUIRE THE DEFENDANT TO PAY TO A PARENT OF THE VICTIM AN AMOUNT  
9 THAT IS DETERMINED TO BE REASONABLE FOR ANY OF THE FOLLOWING THAT  
10 ARE ACTUALLY INCURRED OR REASONABLY EXPECTED TO BE INCURRED BY THE  
11 PARENT AS A RESULT OF THE CRIME:

12 (A) HOMEMAKING AND CHILD CARE EXPENSES.

13 (B) INCOME LOSS NOT ORDERED TO BE PAID UNDER SUBSECTION

14 (4) (H) .

15 (C) MILEAGE.

16 (D) LODGING OR HOUSING.

17 (E) MEALS.

18 (F) ANY OTHER COST INCURRED IN EXERCISING THE RIGHTS OF THE  
19 VICTIM OR A PARENT UNDER THIS ACT.

20 Sec. 16a. (1) If a person is subject to any combination of  
21 fines, costs, restitution, assessments, probation or parole  
22 supervision fees, or other payments arising out of the same  
23 criminal proceeding, money collected from that person for the  
24 payment of fines, costs, restitution, assessments, probation or  
25 parole supervision fees, or other payments **ORDERED TO BE PAID IN**  
26 **THAT PROCEEDING** shall be allocated as provided in this section.  
27 **IF A PERSON IS SUBJECT TO FINES, COSTS, RESTITUTION, ASSESSMENTS,**

1 PROBATION OR PAROLE SUPERVISION FEES, OR OTHER PAYMENTS IN MORE  
2 THAN 1 PROCEEDING IN A COURT AND IF A PERSON MAKING A PAYMENT ON  
3 THE FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE  
4 SUPERVISION FEES, OR OTHER PAYMENTS DOES NOT INDICATE THE  
5 PROCEEDING FOR WHICH THE PAYMENT IS MADE, THE COURT SHALL FIRST  
6 APPLY THE MONEY PAID TO A PROCEEDING IN WHICH THERE IS UNPAID  
7 RESTITUTION TO BE ALLOCATED AS PROVIDED IN THIS SECTION.

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

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

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

4 (b) Payment of other costs.

5 (c) Payment of fines.

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

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

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

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

17 (b) Payment of fines and other costs.

18 (c) Payment of assessments and other payments.

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

24 **SEC. 17A. (1) IF A DEFENDANT WHO HAS BEEN SENTENCED TO THE**  
25 **DEPARTMENT OF CORRECTIONS IS ORDERED TO PAY RESTITUTION UNDER**  
26 **SECTION 16, AND IF THE DEFENDANT RECEIVES MORE THAN \$50.00 IN A**  
27 **MONTH, THE DEPARTMENT OF CORRECTIONS SHALL DEDUCT 50% OF THE AMOUNT**

1 OVER \$50.00 RECEIVED BY THE DEFENDANT FOR PAYMENT OF THE  
2 RESTITUTION. THE DEPARTMENT OF CORRECTIONS SHALL PROMPTLY SEND THE  
3 DEDUCTED MONEY TO THE CRIME VICTIM AS PROVIDED IN THE ORDER OF  
4 RESTITUTION WHEN IT ACCUMULATES TO AN AMOUNT THAT EXCEEDS \$100.00,  
5 OR WHEN THE DEFENDANT IS PAROLED, TRANSFERRED TO COMMUNITY  
6 PROGRAMS, OR DISCHARGED ON THE MAXIMUM SENTENCE.

7 (2) IF A DEFENDANT WHO HAS BEEN SENTENCED TO JAIL IS ORDERED  
8 TO PAY RESTITUTION UNDER SECTION 16, AND IF THE DEFENDANT RECEIVES  
9 MORE THAN \$50.00 IN A MONTH, THE SHERIFF SHALL DEDUCT 50% OF THE  
10 AMOUNT OVER \$50.00 RECEIVED BY THE DEFENDANT FOR PAYMENT OF THE  
11 RESTITUTION. THE SHERIFF SHALL PROMPTLY SEND THE DEDUCTED MONEY TO  
12 THE CRIME VICTIM AS PROVIDED IN THE ORDER OF RESTITUTION WHEN IT  
13 ACCUMULATES TO AN AMOUNT THAT EXCEEDS \$100.00, OR WHEN THE  
14 DEFENDANT IS RELEASED TO PROBATION OR DISCHARGED ON THE MAXIMUM  
15 SENTENCE.

16 (3) THE DEPARTMENT OF CORRECTIONS OR SHERIFF, AS APPLICABLE,  
17 SHALL NOTIFY THE DEFENDANT IN WRITING OF ALL DEDUCTIONS AND  
18 PAYMENTS MADE UNDER THIS SECTION. THE REQUIREMENTS OF THIS SECTION  
19 REMAIN IN EFFECT UNTIL ALL OF THE RESTITUTION HAS BEEN PAID. THE  
20 DEPARTMENT OF CORRECTIONS OR SHERIFF SHALL NOT ENTER INTO ANY  
21 AGREEMENT WITH A DEFENDANT THAT MODIFIES THE REQUIREMENTS OF THIS  
22 SECTION. AN AGREEMENT IN VIOLATION OF THIS SUBSECTION IS VOID.

23 Sec. 18. (1) A person convicted of a crime shall not derive  
24 any profit from the sale of ~~his or her recollections, thoughts,~~  
25 ~~and feelings with regard to the offense committed by that person~~  
26 **ANY OF THE FOLLOWING** until the victim receives any restitution or  
27 compensation ordered for him or her against the defendant, ~~and~~

1 expenses of incarceration are ~~recovered as provided in~~ PAID UNDER  
2 subsection (3), and ~~until~~ ANY BALANCE IN the escrow account  
3 created under subsection (2) is ~~terminated~~ PAID under subsection  
4 (4): —

5 (A) THE PERSON'S RECOLLECTIONS OF OR THOUGHTS OR FEELINGS  
6 ABOUT THE OFFENSE COMMITTED BY THE PERSON.

7 (B) MEMORABILIA RELATED TO THE OFFENSE COMMITTED BY THE  
8 PERSON.

9 (C) THE PERSON'S PROPERTY IF ITS VALUE HAS BEEN ENHANCED OR  
10 INCREASED BY THE PERSON'S NOTORIETY.

11 (2) Upon the conviction of a defendant for a crime involving a  
12 victim, and after notice to ~~any interested party~~ ALL INTERESTED  
13 PARTIES, an attorney for the county in which the conviction  
14 occurred or the attorney general may petition the court in which  
15 the conviction occurred to order that THE defendant forfeit all or  
16 any part of proceeds received or to be received by the defendant —  
17 or the defendant's representatives or assignees —, from ~~contracts~~  
18 ANY OF THE FOLLOWING:

19 (A) CONTRACTS relating to the depiction of the crime or the  
20 defendant's recollections, thoughts, or feelings about the crime,  
21 in books, magazines, media entertainment, or live entertainment. —  
22 as provided in this section. — The proceeds

23 (B) THE SALE OF MEMORABILIA RELATING TO THE CRIME.

24 (C) THE SALE OF PROPERTY OF THE DEFENDANT, THE VALUE OF WHICH  
25 HAS BEEN ENHANCED OR INCREASED BY THE DEFENDANT'S NOTORIETY ARISING  
26 FROM THE CRIME.

27 (3) PROCEEDS ORDERED FORFEITED UNDER SUBSECTION (2) shall be

1 held in **AN** escrow **ACCOUNT** for a period of not more than 5 years.

2 (4) ~~(3)~~ During the existence of ~~the~~ **AN** escrow account  
 3 **CREATED UNDER SUBSECTION (3)**, proceeds in the account shall be  
 4 distributed in the following priority to satisfy the following:

5 (a) An order of restitution entered under ~~sections 16 and 17~~  
 6 **SECTION 16**.

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

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

16 (D) **FINES, COSTS, AND OTHER ASSESSMENTS ORDERED AGAINST THE**  
 17 **DEFENDANT**.

18 (5) ~~(4)~~ ~~The~~ A balance remaining in ~~the~~ **AN** escrow account  
 19 **CREATED UNDER SUBSECTION (3)** at the end of the escrow period shall  
 20 be paid to the crime victim's rights ~~assessment~~ fund **CREATED IN**  
 21 **SECTION 4 OF 1989 PA 196, MCL 780.904**.

22 Sec. 18a. (1) Upon the request of the victim, the prosecuting  
 23 attorney shall notify the victim of the following:

24 (a) That the defendant filed an appeal of his or her  
 25 conviction or sentence or that the prosecuting attorney filed an  
 26 appeal.

27 (b) Whether the defendant has been ordered released on bail or

1 other recognizance pending the disposition of the appeal. If the  
2 prosecuting attorney is notified that the defendant has been  
3 ordered released on bail or other recognizance pending disposition  
4 of the appeal, the prosecuting attorney shall use any means  
5 reasonably calculated to give the victim notice of that order  
6 within 24 hours after the prosecuting attorney is notified of the  
7 order.

8 (c) The time and place of any appellate court ~~proceedings~~  
9 **ORAL ARGUMENTS** and any changes in the time or place of those  
10 ~~proceedings~~ **ARGUMENTS**.

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

21 (2) If the prosecuting attorney is not successful in notifying  
22 the victim of an event described in subsection (1) within the  
23 period set forth in that subsection, the prosecuting attorney shall  
24 notify the victim of that event as soon as possible by any means  
25 reasonably calculated to give the victim prompt actual notice.

26 (3) ~~Upon the request of the victim, the~~ **THE** prosecuting  
27 attorney shall provide the victim with a brief explanation in plain

1 English of the appeal process, including the possible dispositions.

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

5 Sec. 19. (1) Upon the victim's written request, the sheriff or  
6 the department of corrections shall mail to the victim the  
7 following, as applicable, about a prisoner who has been sentenced  
8 to imprisonment under the jurisdiction of the sheriff or the  
9 department for the crime against that victim:

10 (a) Within 30 days after the request, notice of the sheriff's  
11 calculation of the prisoner's earliest release date or the  
12 department's calculation of the prisoner's earliest parole  
13 eligibility date, with all potential good time or disciplinary  
14 credits considered, if the sentence of imprisonment exceeds 90  
15 days. ~~The victim may request 1 time only notice of the calculation~~  
16 ~~described in this subdivision.~~

17 (b) Notice of the prisoner's transfer or pending transfer to a  
18 minimum security facility and the facility's address.

19 (c) Notice of the prisoner's release or pending release in a  
20 community residential program or under furlough; any other transfer  
21 to community status; any transfer from 1 community residential  
22 program or electronic monitoring program to another; or any  
23 transfer from a community residential program or electronic  
24 monitoring program to a state correctional facility.

25 (d) Notice of the escape of the person accused, convicted, or  
26 imprisoned for committing a crime against the victim, as provided  
27 in section 20.

1 (e) Notice of the victim's right to address or submit a  
2 written statement for consideration by a parole board member or a  
3 member of any other panel having authority over the prisoner's  
4 release on parole, as provided in section 21.

5 (f) Notice of the decision of the parole board, or any other  
6 panel having authority over the prisoner's release on parole, after  
7 a parole review, as provided in section ~~21(3)~~ 21.

8 (g) Notice of the release of a prisoner 90 days before the  
9 date of the prisoner's discharge from prison, unless the notice has  
10 been otherwise provided under this article.

11 (h) Notice of a public hearing under section 44 of **THE**  
12 **CORRECTIONS CODE OF 1953**, 1953 PA 232, MCL 791.244, regarding a  
13 reprieve, commutation, or pardon of the prisoner's sentence by the  
14 governor.

15 (i) Notice that a reprieve, commutation, or pardon has been  
16 granted.

17 (j) Notice that a prisoner has had his or her name legally  
18 changed while on parole or within 2 years after release from  
19 parole.

20 (k) Notice that a prisoner has been convicted of a new crime.

21 (l) Notice that a prisoner has been returned from parole status  
22 to a correctional facility due to an alleged violation of the  
23 conditions of his or her parole.

24 (2) A victim's address and telephone number maintained by a  
25 sheriff or the department of corrections upon a request for notice  
26 under ~~subsection (1) is~~ **THIS SECTION ARE** exempt from disclosure  
27 under the freedom of information act, 1976 PA 442, MCL 15.231 to

1 15.246.

2 SEC. 19A. (1) ON A VICTIM'S WRITTEN REQUEST, THE DIRECTOR OF A  
3 HOSPITAL OR FACILITY WHERE A DEFENDANT FOUND NOT GUILTY BY REASON OF  
4 INSANITY HAS BEEN HOSPITALIZED OR ADMITTED BY COURT ORDER SHALL  
5 NOTIFY THE VICTIM OF THE FOLLOWING:

6 (A) A PENDING TRANSFER OF THE DEFENDANT TO A LESS SECURE  
7 HOSPITAL OR FACILITY.

8 (B) A PENDING TRANSFER OF THE DEFENDANT TO ALTERNATIVE CARE OR  
9 TREATMENT, COMMUNITY PLACEMENT, OR AFTERCARE REINTEGRATION.

10 (C) A PENDING LEAVE, ABSENCE, FURLOUGH, OR OTHER RELEASE FROM  
11 CONFINEMENT FOR THE DEFENDANT, WHETHER TEMPORARY OR PERMANENT.

12 (2) A NOTICE REQUIRED BY SUBSECTION (1) SHALL BE GIVEN BY ANY  
13 MEANS REASONABLY CALCULATED TO GIVE THE VICTIM PROMPT ACTUAL  
14 NOTICE.

15 (3) A VICTIM'S ADDRESS AND TELEPHONE NUMBER MAINTAINED BY A  
16 HOSPITAL OR FACILITY UNDER THIS SECTION IS EXEMPT FROM DISCLOSURE  
17 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO  
18 15.246.

19 Sec. 20. (1) ~~As provided in subsection (2) or (3),~~ THE  
20 PERSON DESIGNATED IN SUBSECTIONS (2) TO (4) SHALL GIVE a victim who  
21 requests notice ~~of the escape~~ and the prosecuting attorney who is  
22 prosecuting or has prosecuted the crime for which ~~the person~~ A  
23 DEFENDANT is detained, ~~or~~ under sentence, ~~shall be given~~  
24 HOSPITALIZED, OR ADMITTED TO A FACILITY immediate notice of the  
25 escape of the ~~person~~ DEFENDANT accused, convicted, ~~or~~  
26 imprisoned, HOSPITALIZED, OR ADMITTED for committing a crime  
27 against the victim. The notice shall be given by any means

1 reasonably calculated to give prompt actual notice.

2 (2) If ~~the~~ **AN** escape **FOR WHICH A NOTICE UNDER THIS SECTION**  
3 **IS REQUIRED** occurs before ~~the~~ sentence is executed or before the  
4 defendant is delivered to the department of corrections,  
5 **HOSPITALIZED, OR ADMITTED TO A FACILITY,** the chief law enforcement  
6 officer of the agency in charge of the person's detention shall  
7 give notice of the escape to the prosecuting attorney, who shall  
8 then give notice of the escape to ~~a~~ **THE** victim who requested  
9 notice.

10 (3) If the defendant is confined ~~pursuant to~~ **UNDER** a  
11 sentence, the notice **REQUIRED UNDER THIS SECTION** shall be given by  
12 the chief administrator of the place in which the prisoner is  
13 confined.

14 (4) **IF THE DEFENDANT IS HOSPITALIZED UNDER AN ORDER OF**  
15 **HOSPITALIZATION OR ADMITTED TO A FACILITY UNDER AN ORDER OF**  
16 **ADMISSION, THE NOTICE REQUIRED UNDER THIS SECTION SHALL BE GIVEN BY**  
17 **THE DIRECTOR OF THE HOSPITAL IN WHICH THE DEFENDANT IS HOSPITALIZED**  
18 **OR BY THE DIRECTOR OF THE FACILITY TO WHICH THE DEFENDANT IS**  
19 **ADMITTED.**

20 Sec. 21. (1) A victim ~~shall have~~ **HAS** the right to address or  
21 submit a written statement for consideration by a parole board  
22 member or a member of any other panel having authority over the  
23 prisoner's release on parole.

24 (2) Not less than 30 days before a review of the prisoner's  
25 release, a victim who has requested notice under section 19(1)(f)  
26 shall be given written notice by the department of corrections  
27 informing the victim of the pending review and of victims' rights

1 under this section. The victim, at his or her own expense, may be  
2 represented by counsel at the review.

3 (3) A victim shall receive notice of the decision of the board  
4 or panel and, if applicable, notice of the date of the prisoner's  
5 release on parole. Notice shall be mailed within a reasonable time  
6 after the board or panel reaches its decision but not later than 14  
7 days after the board or panel has reached its decision. The notice  
8 shall include a statement of the victim's right to appeal a parole  
9 decision, as allowed under section ~~34(9)~~ 34 of **THE CORRECTIONS**  
10 **CODE OF 1953**, 1953 PA 232, MCL 791.234.

11 (4) **A RECORD OF AN ORAL STATEMENT OR A WRITTEN STATEMENT MADE**  
12 **UNDER SUBSECTION (1) IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF**  
13 **INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.**

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

16 (a) "County juvenile agency" means that term as defined in  
17 section 2 of the county juvenile agency act, 1998 PA 518, MCL  
18 45.622.

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

20 (c) "Designated case" means a case designated as a case in  
21 which the juvenile is to be tried in the same manner as an adult  
22 under section 2d of chapter XIIA of the probate code of 1939, 1939  
23 PA 288, MCL 712A.2d.

24 (d) "Juvenile" means an individual alleged or found to be  
25 within the court's jurisdiction under section 2(a)(1) of chapter  
26 XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for an  
27 offense, including, but not limited to, an individual in a

1 designated case.

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

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

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

12 (ii) A violation of section 81 (assault and battery, including  
13 domestic violence), 81a (assault; infliction of serious injury,  
14 including aggravated domestic violence), 115 (breaking and entering  
15 or illegal entry), ~~136b(5)~~ **136B(6)** (child abuse in the fourth  
16 degree), **145 (CONTRIBUTING TO THE NEGLECT OR DELINQUENCY OF A**  
17 **MINOR)**, 145a (enticing a child for immoral purposes), **145D (USING**  
18 **THE INTERNET OR A COMPUTER TO MAKE A PROHIBITED COMMUNICATION)**, **233**  
19 **(INTENTIONALLY AIMING A FIREARM WITHOUT MALICE)**, 234 (discharge of  
20 a firearm intentionally aimed at a person), 235 (discharge of an  
21 intentionally aimed firearm resulting in injury), 335a (indecent  
22 exposure), or 411h (stalking) of the Michigan penal code, 1931 PA  
23 328, MCL 750.81, 750.81a, 750.115, 750.136b, **750.145**, 750.145a,  
24 **750.145D**, **750.233**, 750.234, 750.235, 750.335a, and 750.411h.

25 (iii) A violation of section **601B(2) (INJURING A WORKER IN A**  
26 **WORK ZONE)** OR 617a (leaving the scene of a personal injury  
27 accident) of the Michigan vehicle code, 1949 PA 300, MCL **257.601B**

1 **AND** 257.617a, or a violation of section 625 (operating a vehicle  
2 while under the influence of or impaired by intoxicating liquor or  
3 a controlled substance, or with unlawful blood alcohol content) of  
4 that act, MCL 257.625, if the violation involves an accident  
5 resulting in damage to another individual's property or physical  
6 injury or death to another individual.

7 (iv) Selling or furnishing alcoholic liquor to an individual  
8 less than 21 years of age in violation of section 33 of the former  
9 1933 (Ex Sess) PA 8, or section 701 of the Michigan liquor control  
10 code of 1998, 1998 PA 58, MCL 436.1701, if the violation results in  
11 physical injury or death to any individual.

12 (v) A violation of section 80176(1) or (3) (operating a vessel  
13 while under the influence of or impaired by intoxicating liquor or  
14 a controlled substance, or with unlawful blood alcohol content) of  
15 the natural resources and environmental protection act, 1994 PA  
16 451, MCL 324.80176, if the violation involves an accident resulting  
17 in damage to another individual's property or physical injury or  
18 death to any individual.

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

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

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

26 (h) "Prosecuting attorney" means the prosecuting attorney for  
27 a county, an assistant prosecuting attorney for a county, the

1 attorney general, the deputy attorney general, an assistant  
2 attorney general, a special prosecuting attorney, or, in connection  
3 with the prosecution of an ordinance violation, an attorney for the  
4 political subdivision that enacted the ordinance upon which the  
5 violation is based.

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

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

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

12 (A) The spouse of the deceased victim.

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

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

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

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

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

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

27 (iv) A parent, guardian, or custodian of a victim who is

1 mentally or emotionally unable to participate in the legal process  
2 if he or she is neither the defendant nor incarcerated.

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

14 (3) An individual who is charged with an offense arising out  
15 of the same transaction from which the charge against the defendant  
16 arose is not eligible to exercise the privileges and rights  
17 established for victims under this article.

18 Sec. 44. (1) ~~For purposes of~~ **AS USED IN** this section only:

19 (a) "Offense" means a violation of a penal law of this state  
20 or a violation of an ordinance of a local unit of government of  
21 this state punishable by imprisonment or by a fine that is not a  
22 civil fine.

23 (b) "Victim" means an individual who suffers direct or  
24 threatened physical, financial, or emotional harm as a result of  
25 the commission of an offense. ~~For purposes of~~ **AS USED IN**  
26 subsections (2), (3), (6), (8), (9), and (13) **ONLY**, victim includes  
27 a sole proprietorship, partnership, corporation, association,

1 governmental entity, or any other legal entity that suffers direct  
2 physical or financial harm as a result of an offense.

3 (2) Except as provided in subsection (8), at the dispositional  
4 hearing or sentencing for an offense, the court shall order, in  
5 addition to or in lieu of any other disposition or penalty  
6 authorized by law, that the juvenile make full restitution to any  
7 victim of the juvenile's course of conduct that gives rise to the  
8 disposition or conviction or to the victim's estate. For an offense  
9 that is resolved informally by means of a consent calendar  
10 diversion or ~~any other~~ **BY ANOTHER** informal method that does not  
11 result in a dispositional hearing, **BY ASSIGNMENT TO YOUTHFUL**  
12 **TRAINEE STATUS, BY A DELAYED SENTENCE OR DEFERRED JUDGMENT OF**  
13 **GUILT, OR IN ANOTHER WAY THAT IS NOT AN ACQUITTAL OR UNCONDITIONAL**  
14 **DISMISSAL**, the court shall order the restitution required under  
15 this section.

16 (3) If an offense results in damage to or loss or destruction  
17 of property of a victim of the offense or results in the seizure or  
18 impoundment of property of a victim of the offense, the order of  
19 restitution ~~may~~ **SHALL** require that the juvenile do 1 or more of  
20 the following, as applicable:

21 (a) Return the property to the owner of the property or to a  
22 person designated by the owner.

23 (b) If return of the property under subdivision (a) is  
24 impossible, impractical, or inadequate, pay an amount equal to the  
25 greater of subparagraph (i) or (ii), less the value, determined as of  
26 the date the property is returned, of that property or any part of  
27 the property that is returned:

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

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

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

5           (4) If an offense results in physical or psychological injury  
6 to a victim, the order of restitution ~~may~~ **SHALL** require that the  
7 juvenile do 1 or more of the following, as applicable:

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

12           (b) Pay an amount equal to the reasonably determined cost of  
13 physical and occupational therapy and rehabilitation actually  
14 incurred and reasonably expected to be incurred.

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

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

21           (e) Pay an amount equal to the reasonably determined costs of  
22 homemaking and child care expenses actually incurred or reasonably  
23 expected to be incurred as a result of the offense or, if  
24 homemaking or child care is provided without compensation by a  
25 relative, friend, or any other person, an amount equal to the costs  
26 that would reasonably be incurred as a result of the offense for  
27 that homemaking and child care, based on the rates in the area for

1 comparable services.

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

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

10 **(H) PAY AN AMOUNT EQUAL TO INCOME ACTUALLY LOST BY THE SPOUSE,**  
11 **PARENT, SIBLING, CHILD, OR GRANDPARENT OF THE VICTIM BECAUSE THE**  
12 **FAMILY MEMBER LEFT HIS OR HER EMPLOYMENT, TEMPORARILY OR**  
13 **PERMANENTLY, TO CARE FOR THE VICTIM BECAUSE OF THE INJURY.**

14 (5) If an offense resulting in bodily injury also results in  
15 the death of a victim or serious impairment of a body function of a  
16 victim, the court may order up to 3 times the amount of restitution  
17 otherwise allowed under this section. As used in this subsection,  
18 "serious impairment of a body function of a victim" includes, but  
19 is not limited to, 1 or more of the 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 juvenile 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 compensation  
13 paid for that loss. The court shall also order restitution for the  
14 costs of services provided to persons or entities that have  
15 provided services to the victim as a result of the offense.  
16 Services that are subject to restitution under this subsection  
17 include, but are not limited to, shelter, food, clothing, and  
18 transportation. However, an order of restitution shall require that  
19 all restitution to a victim or victim's estate under the order be  
20 made before any restitution to any other person or entity under  
21 that order is made. The court shall not order restitution to be  
22 paid to a victim or victim's estate if the victim or victim's  
23 estate has received or is to receive compensation for that loss,  
24 and the court shall state on the record with specificity the  
25 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 juvenile make restitution under this  
9 section within a specified period or in specified installments.

10 (11) If the juvenile is placed on probation, any restitution  
11 ordered under this section shall be a condition of that probation.  
12 The court may revoke probation if the juvenile fails to comply with  
13 the order and if the juvenile has not made a good faith effort to  
14 comply with the order. In determining whether to revoke probation,  
15 the court shall consider the juvenile's employment status, earning  
16 ability, and financial resources, the willfulness of the juvenile's  
17 failure to pay, and any other special circumstances that may have a  
18 bearing on the juvenile's ability to pay.

19 (12) ~~A~~ **SUBJECT TO SUBSECTION (18),** A juvenile who is  
20 required to pay restitution and who is not in willful default of  
21 the payment of the restitution may at any time petition the court  
22 to modify the method of payment. If the court determines that  
23 payment under the order will impose a manifest hardship on the  
24 juvenile or his or her immediate family, and if the court also  
25 determines that modifying the method of payment will not impose a  
26 manifest hardship on the victim, the court may modify the method of  
27 payment.

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

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

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

1           (16) If the court orders a parent to pay restitution under  
2 subsection (15), the court shall take into account the parent's  
3 financial resources and the burden that the payment of restitution  
4 will impose, with due regard to any other moral or legal financial  
5 obligations the parent may have. If a parent is required to pay  
6 restitution under subsection (15), the court shall provide for  
7 payment to be made in specified installments and within a specified  
8 period of time.

9           (17) A parent who has been ordered to pay restitution under  
10 subsection (15) may petition the court for a modification of the  
11 amount of restitution owed by the parent or for a cancellation of  
12 any unpaid portion of the parent's obligation. The court shall  
13 cancel all or part of the parent's obligation due if the court  
14 determines that payment of the amount due will impose a manifest  
15 hardship on the parent and if the court also determines that  
16 modifying the method of payment will not impose a manifest hardship  
17 on the victim.

18           (18) In each case in which payment of restitution is ordered  
19 as a condition of probation, the court ~~may~~ **SHALL** order any  
20 employed juvenile to **MAKE REGULARLY SCHEDULED RESTITUTION PAYMENTS.**  
21 **IF THE JUVENILE MISSES 2 OR MORE REGULARLY SCHEDULED PAYMENTS, THE**  
22 **COURT SHALL ORDER THE JUVENILE TO** execute a wage assignment to pay  
23 the restitution. The juvenile caseworker or probation officer  
24 assigned to the case shall review the case not less than twice  
25 yearly to ensure that restitution is being paid as ordered. If the  
26 restitution was ordered to be made within a specific period of  
27 time, the juvenile caseworker or probation officer assigned to the

1 case shall review the case at the end of the specific period of  
2 time to determine if the restitution has been paid in full. The  
3 final review shall be conducted not less than 60 days before the  
4 probationary period expires. If the juvenile caseworker or  
5 probation officer determines at any review the restitution is not  
6 being paid as ordered, the juvenile caseworker or probation officer  
7 shall file a written report of the violation with the court on a  
8 form prescribed by the state court administrative office or shall  
9 petition the court for a probation violation. The report or  
10 petition shall include a statement of the amount of the arrearage,  
11 and any reasons for the arrearage known by the juvenile caseworker  
12 or probation officer. The juvenile caseworker or probation officer  
13 shall immediately provide a copy of the report or petition to the  
14 prosecuting attorney. If a petition or motion is filed or other  
15 proceedings are initiated to enforce payment of restitution and the  
16 court determines that restitution is not being paid or has not been  
17 paid as ordered by the court, the court shall promptly take action  
18 necessary to compel compliance.

19 (19) If the court determines that an individual who is ordered  
20 to pay restitution under this section is remanded to the  
21 jurisdiction of the department of corrections, the court shall  
22 provide a copy of the order of restitution to the department of  
23 corrections when the court determines that the individual is  
24 remanded to the department's jurisdiction.

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

1           (21) If a person or entity entitled to restitution **UNDER THIS**  
2 **SECTION** cannot be located, ~~or~~ refuses to claim ~~that~~ **THE**  
3 restitution within 2 years after the date on which he or she could  
4 have claimed the restitution, **OR REFUSES TO ACCEPT THE RESTITUTION,**  
5 the restitution ~~paid~~ to **WHICH** that person or entity **IS ENTITLED**  
6 shall be deposited in the crime victim's rights fund created under  
7 section 4 of 1989 PA 196, MCL 780.904, or its successor fund.  
8 However, a person or entity entitled to that restitution may claim  
9 that restitution any time by applying to the court that originally  
10 ordered and collected it. The court shall notify the crime victim  
11 services commission of the application and the commission shall  
12 approve a reduction in the court's revenue transmittal to the crime  
13 victim rights fund equal to the restitution owed to the person or  
14 entity. The court shall use the reduction to reimburse that  
15 restitution to the person or entity.

16           (22) **THE COURT MAY AMEND AN ORDER OF RESTITUTION ENTERED UNDER**  
17 **THIS SECTION ON A MOTION BY THE PROSECUTING ATTORNEY, THE VICTIM,**  
18 **OR THE DEFENDANT BASED UPON NEW INFORMATION RELATED TO THE INJURY,**  
19 **DAMAGES, OR LOSS FOR WHICH THE RESTITUTION WAS ORDERED.**

20           (23) A COURT THAT RECEIVES NOTICE THAT A DEFENDANT WHO HAS AN  
21 OBLIGATION TO PAY RESTITUTION UNDER THIS SECTION HAS DECLARED  
22 BANKRUPTCY SHALL FORWARD A COPY OF THAT NOTICE TO THE PROSECUTING  
23 ATTORNEY. THE PROSECUTING ATTORNEY SHALL FORWARD THE NOTICE TO THE  
24 VICTIM AT THE VICTIM'S LAST KNOWN ADDRESS.

25           (24) IF THE VICTIM IS A MINOR, THE ORDER OF RESTITUTION SHALL  
26 REQUIRE THE DEFENDANT TO PAY TO A PARENT OF THE VICTIM AN AMOUNT  
27 THAT IS DETERMINED TO BE REASONABLE FOR ANY OF THE FOLLOWING THAT

1 ARE ACTUALLY INCURRED OR REASONABLY EXPECTED TO BE INCURRED BY THE  
2 PARENT AS A RESULT OF THE CRIME:

3 (A) **HOMEMAKING AND CHILD CARE EXPENSES.**

4 (B) **INCOME LOSS NOT ORDERED TO BE PAID UNDER SUBSECTION**  
5 **(4) (H).**

6 (C) **MILEAGE.**

7 (D) **LODGING OR HOUSING.**

8 (E) **MEALS.**

9 (F) **ANY OTHER COST INCURRED IN EXERCISING THE RIGHTS OF THE**  
10 **VICTIM OR A PARENT UNDER THIS ACT.**

11 Sec. 44a. (1) If a juvenile is subject to any combination of  
12 fines, costs, restitution, assessments, probation or parole  
13 supervision fees, or other payments arising out of the same  
14 criminal proceeding, money collected from that juvenile for the  
15 payment of fines, costs, restitution, assessments, probation or  
16 parole supervision fees, or other payments **ORDERED TO BE PAID IN**  
17 **THAT PROCEEDING** shall be allocated as provided in this section. **IF**  
18 **A PERSON IS SUBJECT TO FINES, COSTS, RESTITUTION, ASSESSMENTS,**  
19 **PROBATION OR PAROLE SUPERVISION FEES, OR OTHER PAYMENTS IN MORE**  
20 **THAN 1 PROCEEDING IN A COURT AND IF A PERSON MAKING A PAYMENT ON**  
21 **THE FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE**  
22 **SUPERVISION FEES, OR OTHER PAYMENTS DOES NOT INDICATE THE**  
23 **PROCEEDING FOR WHICH THE PAYMENT IS MADE, THE COURT SHALL FIRST**  
24 **APPLY THE MONEY PAID TO A PROCEEDING IN WHICH THERE IS UNPAID**  
25 **RESTITUTION TO BE ALLOCATED AS PROVIDED IN THIS SECTION.**

26 (2) Except as otherwise provided in this subsection, if a  
27 juvenile is subject to payment of victim payments and any

1 combination of other fines, costs, assessments, probation or parole  
2 supervision fees, or other payments, 50% of each payment collected  
3 by the court from that juvenile shall be applied to payment of  
4 victim payments, and the balance shall be applied to payment of  
5 fines, costs, supervision fees, and other assessments or payments.  
6 If any fines, costs, supervision fees, or other assessments or  
7 payments remain unpaid after all of the victim payments have been  
8 paid, any additional money collected shall be applied to payment of  
9 those fines, costs, supervision fees, or other assessments or  
10 payments. If any victim payments remain unpaid after all of the  
11 fines, costs, supervision fees, or other assessments or payments  
12 have been paid, any additional money collected shall be applied  
13 toward payment of those victim payments.

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

19 (a) Payment of the minimum state cost prescribed by section 1j  
20 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL  
21 769.1j.

22 (b) Payment of other costs.

23 (c) Payment of fines.

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

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

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

5           (a) Payment of the minimum state cost prescribed by section 1j  
6 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL  
7 769.1j.

8           (b) Payment of fines and other costs.

9           (c) Payment of assessments and other payments.

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

15           Sec. 46. (1) Upon the request of the victim, the prosecuting  
16 attorney shall notify the victim of the following:

17           (a) That the juvenile filed an appeal of his or her  
18 adjudication, conviction, disposition, or sentence or the  
19 prosecuting attorney filed an appeal.

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

27           (c) The time and place of any appellate court ~~—proceedings~~

1 **ORAL ARGUMENTS** and any changes in the time or place of those  
2 ~~proceedings~~ **ARGUMENTS**.

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

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

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

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

25 **SEC. 46B. (1) IF A JUVENILE WHO HAS BEEN SENTENCED TO THE**  
26 **DEPARTMENT OF CORRECTIONS IS ORDERED TO PAY RESTITUTION UNDER**  
27 **SECTION 44, AND IF THE JUVENILE RECEIVES MORE THAN \$50.00 IN A**

1 MONTH, THE DEPARTMENT OF CORRECTIONS SHALL DEDUCT 50% OF THE AMOUNT  
2 OVER \$50.00 RECEIVED BY THE JUVENILE FOR PAYMENT OF THE  
3 RESTITUTION. THE DEPARTMENT OF CORRECTIONS SHALL PROMPTLY SEND THE  
4 DEDUCTED MONEY TO THE CRIME VICTIM AS PROVIDED IN THE ORDER OF  
5 RESTITUTION WHEN IT ACCUMULATES TO AN AMOUNT THAT EXCEEDS \$100.00,  
6 OR WHEN THE JUVENILE IS PAROLED, TRANSFERRED TO COMMUNITY PROGRAMS,  
7 OR DISCHARGED ON THE MAXIMUM SENTENCE.

8 (2) IF A JUVENILE WHO HAS BEEN SENTENCED TO JAIL IS ORDERED TO  
9 PAY RESTITUTION UNDER SECTION 44, AND IF THE JUVENILE RECEIVES MORE  
10 THAN \$50.00 IN A MONTH, THE SHERIFF SHALL DEDUCT 50% OF THE AMOUNT  
11 OVER \$50.00 RECEIVED BY THE JUVENILE FOR PAYMENT OF THE  
12 RESTITUTION. THE SHERIFF SHALL PROMPTLY SEND THE DEDUCTED MONEY TO  
13 THE CRIME VICTIM AS PROVIDED IN THE ORDER OF RESTITUTION WHEN IT  
14 ACCUMULATES TO AN AMOUNT THAT EXCEEDS \$100.00, OR WHEN THE JUVENILE  
15 IS RELEASED TO PROBATION OR DISCHARGED ON THE MAXIMUM SENTENCE.

16 (3) IF A JUVENILE WHO HAS BEEN PLACED IN A JUVENILE FACILITY  
17 IS ORDERED TO PAY RESTITUTION UNDER SECTION 44, AND IF THE JUVENILE  
18 RECEIVES MORE THAN \$50.00 IN A MONTH, THE DEPARTMENT OF HUMAN  
19 SERVICES OR THE COUNTY JUVENILE AGENCY, AS APPLICABLE, SHALL DEDUCT  
20 50% OF THE AMOUNT OVER \$50.00 RECEIVED BY THE JUVENILE FOR PAYMENT  
21 OF THE RESTITUTION. THE DEPARTMENT OF HUMAN SERVICES OR THE COUNTY  
22 JUVENILE AGENCY, AS APPLICABLE, SHALL PROMPTLY SEND THE DEDUCTED  
23 MONEY TO THE CRIME VICTIM AS PROVIDED IN THE ORDER OF RESTITUTION  
24 WHEN IT ACCUMULATES TO AN AMOUNT THAT EXCEEDS \$100.00, OR WHEN THE  
25 JUVENILE IS RELEASED FROM THE JUVENILE FACILITY.

26 (4) THE DEPARTMENT OF CORRECTIONS, SHERIFF, DEPARTMENT OF  
27 HUMAN SERVICES, OR COUNTY JUVENILE AGENCY, AS APPLICABLE, SHALL

1 NOTIFY THE JUVENILE IN WRITING OF ALL DEDUCTIONS AND PAYMENTS MADE  
2 UNDER THIS SECTION. THE REQUIREMENTS OF THIS SECTION REMAIN IN  
3 EFFECT UNTIL ALL OF THE RESTITUTION HAS BEEN PAID. THE DEPARTMENT  
4 OF CORRECTIONS, SHERIFF, DEPARTMENT OF HUMAN SERVICES, OR COUNTY  
5 JUVENILE AGENCY SHALL NOT ENTER INTO ANY AGREEMENT WITH A JUVENILE  
6 THAT MODIFIES THE REQUIREMENTS OF THIS SECTION. AN AGREEMENT IN  
7 VIOLATION OF THIS SUBSECTION IS VOID.

8 Sec. 47. (1) A juvenile adjudicated for an offense shall not  
9 derive any profit from the sale of ~~his or her recollections,~~  
10 ~~thoughts, and feelings with regard to the offense committed by that~~  
11 ~~juvenile~~ **ANY OF THE FOLLOWING** until the victim receives any  
12 restitution or compensation ordered for him or her against the  
13 juvenile, ~~and expenses of detention are recovered as provided in~~  
14 **PAID UNDER** subsection (3), ~~and until~~ **AND ANY BALANCE IN** the  
15 escrow account created under subsection (2) is ~~terminated~~ **PAID**  
16 under subsection (4): —

17 (A) **THE JUVENILE'S RECOLLECTIONS OF OR THOUGHTS OR FEELINGS**  
18 **ABOUT THE OFFENSE COMMITTED BY THE JUVENILE.**

19 (B) **MEMORABILIA RELATED TO THE OFFENSE COMMITTED BY THE**  
20 **JUVENILE.**

21 (C) **THE JUVENILE'S PROPERTY IF ITS VALUE HAS BEEN ENHANCED OR**  
22 **INCREASED BY THE JUVENILE'S NOTORIETY.**

23 (2) Upon the disposition of a juvenile offense involving a  
24 victim, and after notice to ~~any interested party~~ **ALL INTERESTED**  
25 **PARTIES**, an attorney for the county in which the disposition  
26 occurred or the attorney general may petition the court in which  
27 the disposition occurred to order that **THE** juvenile forfeit all or

1 any part of proceeds received or to be received by the juvenile —  
2 or the juvenile's representatives or assignees —, from ~~contracts~~

3 **ANY OF THE FOLLOWING:**

4 (A) **CONTRACTS** relating to the depiction of the offense or the  
5 juvenile's recollections, thoughts, or feelings about the offense,  
6 in books, magazines, media entertainment, or live entertainment. —  
7 ~~as provided in this section. The proceeds~~

8 (B) **THE SALE OF MEMORABILIA RELATING TO THE OFFENSE.**

9 (C) **THE SALE OF PROPERTY OF THE JUVENILE, THE VALUE OF WHICH**  
10 **HAS BEEN ENHANCED OR INCREASED BY THE JUVENILE'S NOTORIETY ARISING**  
11 **FROM THE CRIME.**

12 (3) **PROCEEDS ORDERED FORFEITED UNDER SUBSECTION (2)** shall be  
13 held in **AN** escrow **ACCOUNT** for a period of not more than 5 years.

14 (4) ~~(3)~~ During the existence of ~~the~~ **AN** escrow account  
15 **CREATED UNDER SUBSECTION (3)**, proceeds in the account shall be  
16 distributed in the following priority to satisfy the following:

17 (a) An order of restitution entered under ~~sections 44 and 45~~  
18 **SECTION 44.**

19 (b) Any civil judgment in favor of the victim against ~~that~~  
20 **THE** juvenile.

21 (c) Any reimbursement for detention ordered under section 18  
22 of chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~  
23 ~~section 712A.18 of the Michigan Compiled Laws~~ **THE PROBATE CODE OF**  
24 **1939, 1939 PA 288, MCL 712A.18.**

25 (D) **FINES, COSTS, AND OTHER ASSESSMENTS ORDERED AGAINST THE**  
26 **JUVENILE.**

27 (5) ~~(4)~~ ~~The~~ **A** balance remaining in ~~the~~ **AN** escrow account

1 **CREATED UNDER SUBSECTION (3)** at the end of the escrow period shall  
2 be paid to the crime victim's rights ~~assessment~~ fund **CREATED**  
3 **UNDER SECTION 4 OF 1989 PA 196, MCL 780.904.**

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

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

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

10 (ii) A violation of section 81a of the Michigan penal code,  
11 1931 PA 328, MCL 750.81a, assault; infliction of serious injury,  
12 including aggravated domestic violence.

13 (iii) A violation of section 115 of the Michigan penal code,  
14 1931 PA 328, MCL 750.115, breaking and entering or illegal entry.

15 (iv) A violation of section 136b(6) of the Michigan penal code,  
16 1931 PA 328, MCL 750.136b, child abuse in the fourth degree.

17 (v) **A VIOLATION OF SECTION 145 OF THE MICHIGAN PENAL CODE,**  
18 **1931 PA 328, MCL 750.145, CONTRIBUTING TO THE NEGLECT OR**  
19 **DELINQUENCY OF A MINOR.**

20 (vi) ~~(v)~~ A violation of section 145a of the Michigan penal  
21 code, 1931 PA 328, MCL 750.145a, enticing a child for immoral  
22 purposes.

23 (vii) **A MISDEMEANOR VIOLATION OF SECTION 145D OF THE MICHIGAN**  
24 **PENAL CODE, 1931 PA 328, MCL 750.145D, USING THE INTERNET OR A**  
25 **COMPUTER TO MAKE A PROHIBITED COMMUNICATION.**

26 (viii) **A VIOLATION OF SECTION 233 OF THE MICHIGAN PENAL CODE,**  
27 **1931 PA 238, MCL 750.233, INTENTIONALLY AIMING A FIREARM WITHOUT**

1 **MALICE.**

2 (ix) ~~—(vi)—~~ A violation of section 234 of the Michigan penal  
3 code, 1931 PA 328, MCL 750.234, discharge of a firearm  
4 intentionally aimed at a person.

5 (x) ~~—(vii)—~~ A violation of section 235 of the Michigan penal  
6 code, 1931 PA 328, MCL 750.235, discharge of an intentionally aimed  
7 firearm resulting in injury.

8 (xi) ~~—(viii)—~~ A violation of section 335a of the Michigan penal  
9 code, 1931 PA 328, MCL 750.335a, indecent exposure.

10 (xii) **A VIOLATION OF SECTION 411H OF THE MICHIGAN PENAL CODE,**  
11 **1931 PA 328, MCL 750.411H, STALKING.**

12 (xiii) **A VIOLATION OF SECTION 601B(2) OF THE MICHIGAN VEHICLE**  
13 **CODE, 1949 PA 300, MCL 257.601B, INJURING A WORKER IN A WORK ZONE.**

14 (xiv) ~~—(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 (xv) ~~—(x)—~~ A violation of section 625 of the Michigan vehicle  
18 code, 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 (xvi) ~~—(xi)—~~ Selling or furnishing alcoholic liquor to an  
25 individual less than 21 years of age in violation of section 701 of  
26 the 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 (xvii) ~~—(xiii)—~~ A violation of section 80176(1) or (3) of the  
5 natural resources and environmental protection act, 1994 PA 451,  
6 MCL 324.80176, operating a vessel while under the influence of or  
7 impaired by intoxicating liquor or a controlled substance, or with  
8 an unlawful blood alcohol content, if the violation involves an  
9 accident resulting in damage to another individual's property or  
10 physical injury or death to any individual.

11 (xviii) ~~—(xiv)—~~ A violation of a local ordinance substantially  
12 corresponding to a violation enumerated in subparagraphs (i) to  
13 ~~(xiii)— (xvii) .~~

14 (xix) ~~—(xv)—~~ A violation charged as a crime or serious  
15 misdemeanor enumerated in subparagraphs (i) to ~~—(xiv)— (xviii)~~ but  
16 subsequently reduced to or pleaded to as a misdemeanor. As used in  
17 this subparagraph, "crime" means that term as defined in section 2.

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

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

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

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

1           (f) "Prosecuting attorney" means the prosecuting attorney for  
2 a county, an assistant prosecuting attorney for a county, the  
3 attorney general, the deputy attorney general, an assistant  
4 attorney general, a special prosecuting attorney, or, in connection  
5 with the prosecution of an ordinance violation, an attorney for the  
6 political subdivision that enacted the ordinance upon which the  
7 violation is based.

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

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

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

15           (A) The spouse of the deceased victim.

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

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

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

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

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

27           (iii) A parent, guardian, or custodian of a victim who is less

1 than 18 years of age and who is neither the defendant nor  
2 incarcerated, if the parent, guardian, or custodian so chooses.

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

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

18 (3) An individual who is charged with a serious misdemeanor, a  
19 crime as defined in section 2, or an offense as defined in section  
20 31 arising out of the same transaction from which the charge  
21 against the defendant arose is not eligible to exercise the  
22 privileges and rights 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. 61a. A law enforcement officer or prosecuting attorney

1 who files with the court a complaint, appearance ticket, traffic  
2 citation, or other charging instrument regarding a serious  
3 misdemeanor described in section ~~61(1)(a)(x), (xi), or (xiii)~~  
4 **61(1)(A)(xv), (xvi), OR (xvii)**, or a local ordinance substantially  
5 corresponding to a serious misdemeanor described in section  
6 ~~61(1)(a)(x), (xi), or (xiii)~~ **61(1)(A)(xv), (xvi), OR (xvii)**, shall place  
7 a statement on the complaint, appearance ticket, traffic citation,  
8 or other charging instrument that the offense resulted in damage to  
9 another individual's property or physical injury or death to  
10 another individual.

11       Sec. 65. ~~(1)~~ Not later than 72 hours after the arrest of the  
12 defendant for a serious misdemeanor, the law enforcement agency  
13 having responsibility for investigating the serious misdemeanor  
14 shall give to the victim notice of the availability of pretrial  
15 release for the defendant, the phone number of the sheriff, and  
16 notice that the victim may contact the sheriff to determine whether  
17 the defendant has been released from custody. The law enforcement  
18 agency having responsibility for investigating the crime shall  
19 promptly notify the victim of the arrest or pretrial release of the  
20 defendant, or both, if the victim requests or has requested that  
21 information. If the defendant is released from custody by the  
22 sheriff, the sheriff shall notify the law enforcement agency having  
23 responsibility for investigating the crime.

24 ~~—— (2) If the victim submits an affidavit asserting acts or~~  
25 ~~threats of physical violence or intimidation by the defendant or at~~  
26 ~~the defendant's direction against the victim or the victim's~~  
27 ~~immediate family, the prosecuting attorney, based on the victim's~~

1 ~~affidavit, may move that the bond or personal recognizance of a~~  
2 ~~defendant be revoked.~~

3 Sec. 76. (1) ~~For purposes of~~ **AS USED IN** this section only:

4 (a) "Misdemeanor" means a violation of a law of this state or  
5 a local ordinance that is punishable by imprisonment for not more  
6 than 1 year or a fine that is not a civil fine, but that is not a  
7 felony.

8 (b) "Victim" means an individual who suffers direct or  
9 threatened physical, financial, or emotional harm as a result of  
10 the commission of a misdemeanor. ~~For purposes of~~ **AS USED IN**  
11 subsections (2), (3), (6), (8), (9), and (13) **ONLY**, victim includes  
12 a sole proprietorship, partnership, corporation, association,  
13 governmental entity, or any other legal entity that suffers direct  
14 physical or financial harm as a result of a misdemeanor.

15 (2) Except as provided in subsection (8), when sentencing a  
16 defendant convicted of a misdemeanor, the court shall order, in  
17 addition to or in lieu of any other penalty authorized by law or in  
18 addition to any other penalty required by law, that the defendant  
19 make full restitution to any victim of the defendant's course of  
20 conduct that gives rise to the conviction or to the victim's  
21 estate. **FOR AN OFFENSE THAT IS RESOLVED BY ASSIGNMENT OF THE**  
22 **DEFENDANT TO YOUTHFUL TRAINEE STATUS, BY A DELAYED SENTENCE OR**  
23 **DEFERRED JUDGMENT OF GUILT, OR IN ANOTHER WAY THAT IS NOT AN**  
24 **ACQUITTAL OR UNCONDITIONAL DISMISSAL, THE COURT SHALL ORDER THE**  
25 **RESTITUTION REQUIRED UNDER THIS SECTION.**

26 (3) If a misdemeanor results in damage to or loss or  
27 destruction of property of a victim of the misdemeanor or results

1 in the seizure or impoundment of property of a victim of the  
2 misdemeanor, the order of restitution ~~may~~ **SHALL** require that the  
3 defendant do 1 or more of the following, as applicable:

4 (a) Return the property to the owner of the property or to a  
5 person designated by the owner.

6 (b) If return of the property under subdivision (a) is  
7 impossible, impractical, or inadequate, pay an amount equal to the  
8 greater of subparagraph (i) or (ii), less the value, determined as of  
9 the date the property is returned, of that property or any part of  
10 the property that is returned:

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

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

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

15 (4) If a misdemeanor results in physical or psychological  
16 injury to a victim, the order of restitution ~~may~~ **SHALL** require  
17 that the defendant do 1 or more of the following, as applicable:

18 (a) Pay an amount equal to the reasonably determined cost of  
19 medical and related professional services and devices actually  
20 incurred and reasonably expected to be incurred relating to  
21 physical and psychological care.

22 (b) Pay an amount equal to the reasonably determined cost of  
23 physical and occupational therapy and rehabilitation actually  
24 incurred and reasonably expected to be incurred.

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

27 (d) Pay an amount equal to the reasonably determined cost of

1 psychological and medical treatment for members of the victim's  
2 family actually incurred and reasonably expected to be incurred as  
3 a result of the misdemeanor.

4 (e) Pay an amount equal to the reasonably determined costs of  
5 homemaking and child care expenses actually incurred and reasonably  
6 expected to be incurred as a result of the misdemeanor or, if  
7 homemaking or child care is provided without compensation by a  
8 relative, friend, or any other person, an amount equal to the costs  
9 that would reasonably be incurred as a result of the misdemeanor  
10 for that homemaking and child care, based on the rates in the area  
11 for comparable services.

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

14 (g) If the deceased victim could be claimed as a dependent by  
15 his or her parent or guardian on the parent's or guardian's  
16 federal, state, or local income tax returns, pay an amount equal to  
17 the loss of the tax deduction or tax credit. The amount of  
18 reimbursement shall be estimated for each year the victim could  
19 reasonably be claimed as a dependent.

20 **(H) PAY AN AMOUNT EQUAL TO INCOME ACTUALLY LOST BY THE SPOUSE,**  
21 **PARENT, SIBLING, CHILD, OR GRANDPARENT OF THE VICTIM BECAUSE THE**  
22 **FAMILY MEMBER LEFT HIS OR HER EMPLOYMENT, TEMPORARILY OR**  
23 **PERMANENTLY, TO CARE FOR THE VICTIM BECAUSE OF THE INJURY.**

24 (5) If a crime resulting in bodily injury also results in the  
25 death of a victim or serious impairment of a body function of a  
26 victim, the court may order up to 3 times the amount of restitution  
27 otherwise allowed under this section. As used in this subsection,

1 "serious impairment of a body function of a victim" includes, but  
2 is not limited to, 1 or more of the following:

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

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

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

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

7 (e) Serious visible disfigurement.

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

9 (g) Measurable brain damage or mental impairment.

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

11 (i) Subdural hemorrhage or subdural hematoma.

12 (j) Loss of a body organ.

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

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

18 (8) The court shall order restitution to the crime victim  
19 services commission or to any individuals, partnerships,  
20 corporations, associations, governmental entities, or other legal  
21 entities that have compensated the victim or the victim's estate  
22 for a loss incurred by the victim to the extent of the compensation  
23 paid for that loss. The court shall also order restitution for the  
24 costs of services provided to persons or entities that have  
25 provided services to the victim as a result of the misdemeanor.  
26 Services that are subject to restitution under this subsection  
27 include, but are not limited to, shelter, food, clothing, and

1 transportation. However, an order of restitution shall require that  
2 all restitution to a victim or victim's estate under the order be  
3 made before any restitution to any other person or entity under  
4 that order is made. The court shall not order restitution to be  
5 paid to a victim or victim's estate if the victim or victim's  
6 estate has received or is to receive compensation for that loss,  
7 and the court shall state on the record with specificity the  
8 reasons for its action.

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

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

20 (11) If the defendant is placed on probation or the court  
21 imposes a conditional sentence as provided in section 3 of chapter  
22 IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any  
23 restitution ordered under this section shall be a condition of that  
24 probation or sentence. The court may revoke probation or impose  
25 imprisonment under the conditional sentence if the defendant fails  
26 to comply with the order and if the defendant has not made a good  
27 faith effort to comply with the order. In determining whether to

1 revoke probation or impose imprisonment, the court shall consider  
2 the defendant's employment status, earning ability, and financial  
3 resources, the willfulness of the defendant's failure to pay, and  
4 any other special circumstances that may have a bearing on the  
5 defendant's ability to pay.

6 (12) ~~A~~ **SUBJECT TO SUBSECTION (15), A** defendant who is  
7 required to pay restitution and who is not in willful default of  
8 the payment of the restitution may at any time petition the  
9 sentencing judge or his or her successor to modify the method of  
10 payment. If the court determines that payment under the order will  
11 impose a manifest hardship on the defendant or his or her immediate  
12 family, and if the court also determines that modifying the method  
13 of payment will not impose a manifest hardship on the victim, the  
14 court may modify the method of payment.

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

24 (14) Notwithstanding any other provision of this section, a  
25 defendant shall not be imprisoned, jailed, or incarcerated for a  
26 violation of probation or otherwise for failure to pay restitution  
27 as ordered under this section unless the court determines that the

1 defendant has the resources to pay the ordered restitution and has  
2 not made a good faith effort to do so.

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

1 court shall promptly take action necessary to compel compliance.

2 (16) If the court determines that a defendant who is ordered  
3 to pay restitution under this section is remanded to the  
4 jurisdiction of the department of corrections, the court shall  
5 provide a copy of the order of restitution to the department of  
6 corrections when the court determines that the defendant is  
7 remanded to the department's jurisdiction.

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

11 (18) If a person or entity entitled to restitution **UNDER THIS**  
12 **SECTION** cannot be located, ~~or~~ refuses to claim ~~that~~ **THE**  
13 restitution within 2 years after the date on which he or she could  
14 have claimed the restitution, **OR REFUSES TO ACCEPT THE RESTITUTION,**  
15 the restitution ~~paid~~ to **WHICH** that person or entity **IS ENTITLED**  
16 shall be deposited in the crime victim's rights fund created under  
17 section 4 of 1989 PA 196, MCL 780.904, or its successor fund.  
18 However, a person or entity entitled to that restitution may claim  
19 that restitution any time by applying to the court that originally  
20 ordered and collected it. The court shall notify the crime victim  
21 services commission of the application and the commission shall  
22 approve a reduction in the court's revenue transmittal to the crime  
23 victim rights fund equal to the restitution owed to the person or  
24 entity. The court shall use the reduction to reimburse that  
25 restitution to the person or entity.

26 (19) **THE COURT MAY AMEND AN ORDER OF RESTITUTION ENTERED UNDER**  
27 **THIS SECTION ON A MOTION BY THE PROSECUTING ATTORNEY, THE VICTIM,**

1 OR THE DEFENDANT BASED UPON NEW INFORMATION RELATED TO THE INJURY,  
2 DAMAGES, OR LOSS FOR WHICH THE RESTITUTION WAS ORDERED.

3 (20) A COURT THAT RECEIVES NOTICE THAT A DEFENDANT WHO HAS AN  
4 OBLIGATION TO PAY RESTITUTION UNDER THIS SECTION HAS DECLARED  
5 BANKRUPTCY SHALL FORWARD A COPY OF THAT NOTICE TO THE PROSECUTING  
6 ATTORNEY. THE PROSECUTING ATTORNEY SHALL FORWARD THE NOTICE TO THE  
7 VICTIM AT THE VICTIM'S LAST KNOWN ADDRESS.

8 (21) IF THE VICTIM IS A MINOR, THE ORDER OF RESTITUTION SHALL  
9 REQUIRE THE DEFENDANT PAY TO A PARENT OF THE VICTIM AN AMOUNT THAT  
10 IS DETERMINED TO BE REASONABLE FOR ANY OF THE FOLLOWING THAT ARE  
11 ACTUALLY INCURRED OR REASONABLY EXPECTED TO BE INCURRED BY THE  
12 PARENT AS A RESULT OF THE CRIME:

13 (A) HOMEMAKING AND CHILD CARE EXPENSES.

14 (B) INCOME LOSS NOT ORDERED TO BE PAID UNDER SUBSECTION

15 (4) (H) .

16 (C) MILEAGE.

17 (D) LODGING OR HOUSING.

18 (E) MEALS.

19 (F) ANY OTHER COST INCURRED IN EXERCISING THE RIGHTS OF THE  
20 VICTIM OR A PARENT UNDER THIS ACT.

21 Sec. 76a. (1) If a person is subject to any combination of  
22 fines, costs, restitution, assessments, probation or parole  
23 supervision fees, or other payments arising out of the same  
24 criminal proceeding, money collected from that person for the  
25 payment of fines, costs, restitution, assessments, probation or  
26 parole supervision fees, or other payments **ORDERED TO BE PAID IN**  
27 **THAT PROCEEDING** shall be allocated as provided in this section. **IF**

1 A PERSON IS SUBJECT TO FINES, COSTS, RESTITUTION, ASSESSMENTS,  
2 PROBATION OR PAROLE SUPERVISION FEES, OR OTHER PAYMENTS IN MORE  
3 THAN 1 PROCEEDING IN A COURT AND IF A PERSON MAKING A PAYMENT ON  
4 THE FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE  
5 SUPERVISION FEES, OR OTHER PAYMENTS DOES NOT INDICATE THE  
6 PROCEEDING FOR WHICH THE PAYMENT IS MADE, THE COURT SHALL FIRST  
7 APPLY THE MONEY PAID TO A PROCEEDING IN WHICH THERE IS UNPAID  
8 RESTITUTION TO BE ALLOCATED AS PROVIDED IN THIS SECTION.

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

24 (3) In cases involving prosecutions for violations of state  
25 law, money allocated under subsection (2) for payment of fines,  
26 costs, probation and parole supervision fees, and assessments or  
27 payments other than victim payments shall be applied in the

1 following order of priority:

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

5 (b) Payment of other costs.

6 (c) Payment of fines.

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

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

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

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

18 (b) Payment of fines and other costs.

19 (c) Payment of assessments and other payments.

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

25 Sec. 78. (1) Upon the request of the victim, the prosecuting  
26 attorney shall notify the victim of the following:

27 (a) That the defendant filed an appeal of his or her

1 conviction or sentence or ~~that~~ the prosecuting attorney filed an  
2 appeal.

3 (b) Whether the defendant has been ordered released on bail or  
4 other recognizance pending the disposition of the appeal. If the  
5 prosecuting attorney is notified that the defendant has been  
6 ordered released on bail or other recognizance pending disposition  
7 of the appeal, the prosecuting attorney shall use any means  
8 reasonably calculated to give the victim notice of that order  
9 within 24 hours after the prosecuting attorney is notified of the  
10 order.

11 (c) The time and place of any appellate court ~~proceedings~~  
12 **ORAL ARGUMENTS** and any changes in the time or place of those  
13 ~~proceedings~~ **ARGUMENTS**.

14 (d) The result of the appeal. If the conviction is ordered  
15 reversed, the sentence is vacated, the case is remanded for a new  
16 trial, or the prosecuting attorney's appeal is denied, and if the  
17 prosecuting attorney has filed the appropriate notice with the  
18 appellate court, the appellate court shall expedite delivery of the  
19 relevant document to the prosecuting attorney's office by any means  
20 reasonably calculated to give the prosecuting attorney prompt  
21 notice. The prosecuting attorney shall use any means reasonably  
22 calculated to give the victim notice of that order within 24 hours  
23 after the prosecuting attorney is notified of the order.

24 (2) If the prosecuting attorney is not successful in notifying  
25 the victim of an event described in subsection (1) within the  
26 period set forth in that subsection, the prosecuting attorney shall  
27 notify the victim of that event as soon as possible by any means

1 reasonably calculated to give the victim prompt actual notice.

2 (3) ~~Upon the request of the victim, the~~ **THE** prosecuting  
3 attorney shall provide the victim with a brief explanation in plain  
4 English of the appeal process, including the possible dispositions.

5 (4) If the case is returned to the trial court for further  
6 proceedings or a new trial, the victim has the same rights as  
7 previously requested during the proceedings that led to the appeal.

8 **SEC. 80A. (1) IF A DEFENDANT WHO HAS BEEN SENTENCED TO JAIL IS**  
9 **ORDERED TO PAY RESTITUTION UNDER SECTION 76, AND IF THE DEFENDANT**  
10 **RECEIVES MORE THAN \$50.00 IN A MONTH, THE SHERIFF SHALL DEDUCT 50%**  
11 **OF THE AMOUNT OVER \$50.00 RECEIVED BY THE DEFENDANT FOR PAYMENT OF**  
12 **THE RESTITUTION. THE SHERIFF SHALL PROMPTLY SEND THE DEDUCTED MONEY**  
13 **TO THE CRIME VICTIM AS PROVIDED IN THE ORDER OF RESTITUTION WHEN IT**  
14 **ACCUMULATES TO AN AMOUNT THAT EXCEEDS \$100.00, OR WHEN THE**  
15 **DEFENDANT IS RELEASED TO PROBATION OR DISCHARGED ON THE MAXIMUM**  
16 **SENTENCE.**

17 (2) **THE SHERIFF SHALL NOTIFY THE DEFENDANT IN WRITING OF ALL**  
18 **DEDUCTIONS AND PAYMENTS MADE UNDER THIS SECTION. THE REQUIREMENTS**  
19 **OF THIS SECTION REMAIN IN EFFECT UNTIL ALL OF THE RESTITUTION HAS**  
20 **BEEN PAID. THE SHERIFF SHALL NOT ENTER INTO ANY AGREEMENT WITH A**  
21 **DEFENDANT THAT MODIFIES THE REQUIREMENTS OF THIS SECTION. AN**  
22 **AGREEMENT IN VIOLATION OF THIS SUBSECTION IS VOID.**

23 **Sec. 81. (1) A person convicted of a serious misdemeanor shall**  
24 **not derive any profit from the sale of ~~his or her recollections,~~**  
25 **~~thoughts, and feelings with regard to the offense committed by that~~**  
26 **~~person~~ ANY OF THE FOLLOWING** until the victim receives any  
27 restitution or compensation ordered for him or her against the

1 defendant, ~~and~~ expenses of incarceration are ~~recovered as~~  
 2 ~~provided in~~ PAID UNDER subsection (3), and ~~until~~ ANY BALANCE IN  
 3 the escrow account created under subsection (2) is ~~terminated~~  
 4 PAID under subsection (4): —

5 (A) THE PERSON'S RECOLLECTIONS OF OR THOUGHTS OR FEELINGS  
 6 ABOUT THE OFFENSE COMMITTED BY THE PERSON.

7 (B) MEMORABILIA RELATED TO THE OFFENSE COMMITTED BY THE  
 8 PERSON.

9 (C) THE PERSON'S PROPERTY IF ITS VALUE HAS BEEN ENHANCED OR  
 10 INCREASED BY THE PERSON'S NOTORIETY.

11 (2) Upon the conviction of a defendant for a serious  
 12 misdemeanor involving a victim, and after notice to ~~any interested~~  
 13 ~~party~~ ALL INTERESTED PARTIES, an attorney for the county in which  
 14 the conviction occurred or the attorney general may petition the  
 15 court in which the conviction occurred to order that **THE** defendant  
 16 forfeit all or any part of proceeds received or to be received by  
 17 the defendant —, or the defendant's representatives or assignees  
 18 — from ~~contracts~~ ANY OF THE FOLLOWING:

19 (A) **CONTRACTS** relating to the depiction of the crime or the  
 20 defendant's recollections, thoughts, or feelings about the crime,  
 21 in books, magazines, media entertainment, or live entertainment. —  
 22 ~~as provided in this section. The proceeds~~

23 (B) **THE SALE OF MEMORABILIA RELATING TO THE CRIME.**

24 (C) **THE SALE OF PROPERTY OF THE DEFENDANT, THE VALUE OF WHICH**  
 25 **HAS BEEN ENHANCED OR INCREASED BY THE DEFENDANT'S NOTORIETY ARISING**  
 26 **FROM THE CRIME.**

27 (3) **PROCEEDS ORDERED FORFEITED UNDER SUBSECTION (2)** shall be

1 held in **AN** escrow **ACCOUNT** for a period of not more than 5 years.

2 (4) ~~(3)~~ During the existence of ~~the~~ **AN** escrow account  
3 **CREATED UNDER SUBSECTION (3)**, 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 reimbursement  
9 to the county act, ~~Act No. 118 of the Public Acts of 1984, being~~  
10 ~~sections 801.81 to 801.93 of the Michigan Compiled Laws~~ **1984 PA**  
11 **118, MCL 801.81 TO 801.93**, or ordered under the state correctional  
12 facility reimbursement act, ~~Act No. 253 of the Public Acts of~~  
13 ~~1935, being sections 800.401 to 800.406 of the Michigan Compiled~~  
14 ~~Laws~~ **1935 PA 253, MCL 800.401 TO 800.406.**

15 (D) **FINES, COSTS, AND OTHER ASSESSMENTS ORDERED AGAINST THE**  
16 **DEFENDANT.**

17 (5) ~~(4)~~ ~~The~~ **A** balance remaining in ~~the~~ **AN** escrow account  
18 **CREATED UNDER SUBSECTION (3)** at the end of the escrow period shall  
19 be paid to the crime victim's rights ~~assessment~~ fund **CREATED IN**  
20 **SECTION 4 OF 1989 PA 196, MCL 780.904.**

21 Enacting section 1. This amendatory act takes effect January  
22 1, 2006.