

SUBSTITUTE FOR
HOUSE BILL NO. 5902

A bill to amend 1985 PA 87, entitled
"William Van Regenmorter crime victim's rights act,"
by amending section 50 (MCL 780.800), as added by 1988 PA 22, and
by adding section 40a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 40A. (1) AN EMPLOYEE WHO IS A VICTIM IS ENTITLED TO A
2 TOTAL OF NOT MORE THAN 12 WORKWEEKS OF UNPAID LEAVE DURING ANY 12-
3 MONTH PERIOD TO ATTEND THE TRIAL OR OTHER COURT PROCEEDING OF THE
4 DEFENDANT.

5 (2) AN EMPLOYEE SHALL PROVIDE HIS OR HER EMPLOYER WITH ALL OF
6 THE FOLLOWING IF REQUESTING UNPAID LEAVE UNDER THIS SECTION:

7 (A) REASONABLE NOTICE OF THE DATE, TIME, AND ANTICIPATED
8 DURATION OF THE TRIAL OR COURT PROCEEDING FOR WHICH UNPAID LEAVE IS
9 SOUGHT.

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1 (B) [A COPY OF THE NOTICE SENT TO THE VICTIM BY THE
2 PROSECUTING ATTORNEY UNDER SECTION 36.

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5 (3) AN EMPLOYEE WHO IS GRANTED UNPAID LEAVE UNDER THIS SECTION
6 SHALL PROVIDE HIS OR HER EMPLOYER WITH A STATEMENT FROM THE CLERK
7 OF THE COURT IN WHICH THE TRIAL OR COURT PROCEEDING OCCURRED
8 CONFIRMING THE DATE AND TIME THAT THE EMPLOYEE ATTENDED THE TRIAL
9 OR COURT PROCEEDING. THE STATEMENT REQUIRED UNDER THIS SUBSECTION
10 SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT OF ATTORNEY
11 GENERAL.

12 (4) AN EMPLOYER SHALL NOT DISCHARGE, DEMOTE, SUSPEND,
13 RETALIATE AGAINST, OR IN ANY OTHER MANNER DISCRIMINATE AGAINST AN
14 EMPLOYEE FOR, OR PROHIBIT OR DISCOURAGE AN EMPLOYEE FROM,
15 REQUESTING UNPAID LEAVE UNDER THIS SECTION. AN EMPLOYER WHO
16 VIOLATES THIS SUBSECTION IS LIABLE TO AN EMPLOYEE IN A CIVIL ACTION
17 FOR ALL DAMAGES INCURRED, INCLUDING REASONABLE ATTORNEY FEES.

18 (5) AN EMPLOYEE WHO IS A VICTIM SHALL NOT LOSE SENIORITY AND
19 OTHER RIGHTS AND BENEFITS THAT ARE DETERMINED BY SENIORITY FOR
20 USING LEAVE TIME TO ATTEND A TRIAL OR OTHER COURT PROCEEDING OF THE
21 DEFENDANT.

22 (6) AN EMPLOYEE MAY ELECT TO USE OR AN EMPLOYER MAY REQUIRE
23 THE EMPLOYEE TO USE THE EMPLOYEE'S ACCRUED PAID VACATION, PERSONAL
24 LEAVE, OR SICK LEAVE FOR ANY PART OF THE LEAVE PROVIDED UNDER THIS
25 SECTION.

26 [(7) AN EMPLOYER MAY LIMIT THE LEAVE PROVIDED UNDER THIS ACT IF THE
27 EMPLOYEE'S LEAVE WOULD CREATE AN UNDUE HARDSHIP TO THE EMPLOYER'S
BUSINESS.

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(8) AN EMPLOYER SHALL KEEP CONFIDENTIAL THE RECORDS RELATING TO AN EMPLOYEE'S LEAVE UNDER THIS SECTION.

[(9)] AS USED IN THIS SECTION:

(A) "EMPLOYEE" MEANS A PERSON WHO [HAS BEEN EMPLOYED FOR AT LEAST 12 MONTHS BY THE EMPLOYER WITH RESPECT TO WHOM LEAVE IS REQUESTED AND HAS AT LEAST 1,250 HOURS OF SERVICE WITH SUCH EMPLOYER DURING THE PREVIOUS 12-MONTH PERIOD.] EMPLOYEE INCLUDES A PERSON EMPLOYED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE, EXCEPT STATE CLASSIFIED CIVIL SERVICE.

(B) "EMPLOYER" MEANS A PERSON WHO HAS 25 OR MORE EMPLOYEES. EMPLOYER INCLUDES AN AGENT OF AN EMPLOYER IN THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

(C) "UNDUE HARDSHIP" MEANS A SIGNIFICANT DIFFICULTY OR EXPENSE TO A BUSINESS, TAKING INTO CONSIDERATION THE SIZE OF THE EMPLOYER'S BUSINESS AND THE EMPLOYER'S CRITICAL NEED OF THE EMPLOYEE.

~~Sec. 50. Nothing in this article shall be construed as creating~~ EXCEPT AS PROVIDED IN SECTION 40A, THIS ARTICLE DOES NOT CREATE a cause of action for money damages against the state, a county, or a municipality or any of their-ITS agencies, instrumentalities, or employees.

Enacting section 1. This amendatory act does not take effect

1 unless all of the following bills of the 94th Legislature are
2 enacted into law:

3 (a) House Bill No. 5900.

4 (b) House Bill No. 5901.