

# Legislative Analysis



## VICTIM IMPACT STATEMENT

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**Senate Bill 749 without amendment**  
**Sponsor: Sen. Tonya Schuitmaker**  
**House Committee: Judiciary**  
**Senate Committee: Judiciary**

**Complete to 4-26-14**

## A SUMMARY OF SENATE BILL 749 AS REPORTED BY HOUSE COMMITTEE

The bill would allow a parent to submit a victim impact statement if the crime involving the child as victim occurred when the child was still a minor.

The William Van Regenmorter Crime Victim's Rights Act (CVRA) provides for the rights of the victim of a crime. Article 1 applies to a crime that is either designated by law a felony or is punishable by imprisonment for more than one year; Article 2 applies to a crime committed by a juvenile that, if convicted as an adult, may be punished by imprisonment for more than 1 year or an offense expressly designated by law as a felony; Article 3 applies to crimes designated as serious misdemeanors. The rights, which are the same in all three Articles, include the right to make an impact statement to be included in the presentence investigation report and the right to make an oral impact statement when the offender is sentenced. The impact statement is the victim's opportunity to describe the effect the crime had on the victim, whether to detail a physical injury, or to describe an emotional or economic impact. The impact statement is provided to the judge, assistant prosecuting attorney, probation officer, defense attorney and defendant.

The definition of "victim" in each Article is also identical and the term means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime, and includes, among others, an exception for a parent, guardian, or custodian of a victim who is less than 18 years of age and who is neither the defendant nor incarcerated, if the parent, guardian, or custodian so chooses.

Senate Bill 749 would amend Article 2 of the Crime Victim's Rights Act (MCL 780.781), which applies to victims of certain crimes committed by juveniles, to specify that *for the purpose of making an impact statement only*, the definition of "victim" would include a parent, guardian, or custodian of a victim who is less than 18 years of age at the time of the commission of the crime and who is neither the defendant nor incarcerated, if that parent, guardian, or custodian so chooses. The bill would take effect on July 1, 2014.

The bill is identical to House Bill 5262, which has passed the House and is pending Senate floor action. Senate Bill 628 would amend Article 1 of the CVRA to apply to victims of a felony crime. House Bill 5263 and Senate Bill 750 would amend Article 3 to apply to victims of a serious misdemeanor offense.

(Under the act, an individual who is charged with an offense arising out of the same transaction from which the charge against the defendant arose is not eligible to exercise the privileges and rights established for victims. Thus, even if the victim/offender had been a minor at the time of the offense, the parents or guardian could not provide a victim impact statement.)

#### **BRIEF DISCUSSION OF THE ISSUES:**

For a more detailed analysis of the bill, see the House Fiscal Agency's analysis of House Bills 5262 and 5263 and Senate Bill 628 dated 2-3-14. Briefly, however, the bill is part of a package to amend the three articles of the Crime Victim's Rights Act to allow a parent of a crime victim who was a minor when the crime was committed to make an impact statement regardless of the age of their child at the time the crime is prosecuted. Apparently, there is some discrepancy in how courts are interpreting the current definition of "victim," with some allowing a parent to submit an impact statement even if the child is 18 or older by the time the case comes to trial, whereas other judges only allow the victim to submit a statement.

The bill, however, does not appear to address the issue of guardianship. Guardianships automatically end when the ward reaches 18 years of age, unless the person is legally incapacitated. If, in the case of foster care or kinship care (where a family member other than a parent becomes the legal guardian), the child victim ages out of the guardianship before the case is fully adjudicated, it appears the legal guardian would not be able to submit an impact statement. Some feel it is equally important that these adults, as the caregivers at the time the crime was committed, have the opportunity to describe the impact the crime had on their ward.

#### **FISCAL IMPACT:**

The bill would have no fiscal implications for state or local units of government.

#### **POSITIONS:**

The Office of Attorney General indicated support for the bill. (4-17-14)

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