

HOUSE BILL No. 5262

January 29, 2014, Introduced by Reps. Schmidt, O'Brien and Kesto and referred to the Committee on Judiciary.

A bill to amend 1985 PA 87, entitled
"William Van Regenmorter crime victim's rights act,"
by amending section 31 (MCL 780.781), as amended by 2009 PA 28.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

7 (c) "Crime victim services commission" means that term as
8 described in section 2 of 1976 PA 223, MCL 18.352.

9 (d) "Designated case" means a case designated as a case in
10 which the juvenile is to be tried in the same manner as an adult

1 under section 2d of chapter XIIIA of the probate code of 1939, 1939
2 PA 288, MCL 712A.2d.

3 (e) "Juvenile" means an individual alleged or found to be
4 within the court's jurisdiction under section 2(a)(1) of chapter
5 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for an
6 offense, including, but not limited to, an individual in a
7 designated case.

8 (f) "Juvenile facility" means a county facility, an
9 institution operated as an agency of the county or the court, or an
10 institution or agency described in the youth rehabilitation
11 services act, 1974 PA 150, MCL 803.301 to 803.309, to which a
12 juvenile has been committed or in which a juvenile is detained.

13 (g) "Offense" means 1 or more of the following:

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

18 (ii) A violation of section 81 (assault and battery, including
19 domestic violence), 81a (assault; infliction of serious injury,
20 including aggravated domestic violence), 115 (breaking and entering
21 or illegal entry), ~~136b(6)~~ **136B(7)** (child abuse in the fourth
22 degree), 145 (contributing to the neglect or delinquency of a
23 minor), 145d (using the internet or a computer to make a prohibited
24 communication), 233 (intentionally aiming a firearm without
25 malice), 234 (discharge of a firearm intentionally aimed at a
26 person), 235 (discharge of an intentionally aimed firearm resulting
27 in injury), 335a (indecent exposure), or 411h (stalking) of the

1 Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.115,
2 750.136b, 750.145, 750.145d, 750.233, 750.234, 750.235, 750.335a,
3 and 750.411h.

4 (iii) A violation of section 601b(2) (injuring a worker in a
5 work zone) or 617a (leaving the scene of a personal injury
6 accident) of the Michigan vehicle code, 1949 PA 300, MCL 257.601b
7 and 257.617a, or a violation of section 625 (operating a vehicle
8 while under the influence of or impaired by intoxicating liquor or
9 a controlled substance, or with unlawful blood alcohol content) of
10 that act, MCL 257.625, if the violation involves an accident
11 resulting in damage to another individual's property or physical
12 injury or death to another individual.

13 (iv) Selling or furnishing alcoholic liquor to an individual
14 less than 21 years of age in violation of section 33 of the former
15 1933 (Ex Sess) PA 8, or section 701 of the Michigan liquor control
16 code of 1998, 1998 PA 58, MCL 436.1701, if the violation results in
17 physical injury or death to any individual.

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

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

27 (vii) A violation described in subparagraphs (i) to (vi) that is

1 subsequently reduced to a violation not included in subparagraphs
2 (i) to (vi).

3 (h) "Person" means an individual, organization, partnership,
4 corporation, or governmental entity.

5 (i) "Prosecuting attorney" means the prosecuting attorney for
6 a county, an assistant prosecuting attorney for a county, the
7 attorney general, the deputy attorney general, an assistant
8 attorney general, a special prosecuting attorney, or, in connection
9 with the prosecution of an ordinance violation, an attorney for the
10 political subdivision that enacted the ordinance upon which the
11 violation is based.

12 (j) "Victim" means any of the following:

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

16 (ii) The following individuals other than the juvenile if the
17 victim is deceased:

18 (A) The spouse of the deceased victim.

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

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

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

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

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

3 (iii) A parent, guardian, or custodian of a victim who is less
4 than 18 years of age and who is neither the defendant nor
5 incarcerated, if the parent, guardian, or custodian so chooses. **FOR**
6 **THE PURPOSE OF MAKING AN IMPACT STATEMENT ONLY, A PARENT, GUARDIAN,**
7 **OR CUSTODIAN OF A VICTIM WHO IS LESS THAN 18 YEARS OF AGE AT THE**
8 **TIME OF THE COMMISSION OF THE CRIME AND WHO IS NEITHER THE**
9 **DEFENDANT NOR INCARCERATED, IF THE PARENT, GUARDIAN, OR CUSTODIAN**
10 **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) is
15 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 an offense arising out
26 of 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 Enacting section 1. This amendatory act takes effect July 1,
3 2014.