

# HOUSE BILL No. 5005

September 26, 2017, Introduced by Reps. Sheppard, Hoitenga, Iden and Kesto and referred to the Committee on Law and Justice.

A bill to amend 1985 PA 87, entitled  
"William Van Regenmorter crime victim's rights act,"  
by amending sections 16, 44, and 76 (MCL 780.766, 780.794, and  
780.826), as amended by 2013 PA 139.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 16. (1) As used in this section only, "victim" means an  
2 individual who suffers direct or threatened physical, financial, or  
3 emotional harm as a result of the commission of a crime. As used in  
4 subsections (2), (3), (6), (8), (9), **(10)**, and ~~(13)~~ **(14)** only,  
5 victim includes a sole proprietorship, partnership, corporation,  
6 association, governmental entity, or any other legal entity that  
7 suffers direct physical or financial harm as a result of a crime.

8       (2) Except as provided in subsection ~~(8)~~ **(9)**, when sentencing  
9 a defendant convicted of a crime, the court shall order, in  
10 addition to or in lieu of any other penalty authorized by law or in

1 addition to any other penalty required by law, that the defendant  
2 make full restitution to any victim of the defendant's course of  
3 conduct that gives rise to the conviction or to the victim's  
4 estate. For an offense that is resolved by assignment of the  
5 defendant to youthful trainee status, by a delayed sentence or  
6 deferred judgment of guilt, or in another way that is not an  
7 acquittal or unconditional dismissal, the court shall order the  
8 restitution required under this section.

9 (3) If a crime results in damage to or loss or destruction of  
10 property of a victim of the crime or results in the seizure or  
11 impoundment of property of a victim of the crime, the order of  
12 restitution ~~shall~~**MUST** require that the defendant do 1 or more of  
13 the following, as applicable:

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

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

21 (i) The fair market value of the property on the date of the  
22 damage, loss, or destruction. However, if the fair market value of  
23 the property cannot be determined or is impractical to ascertain,  
24 then the replacement value of the property ~~shall~~**MUST** be utilized  
25 in lieu of the fair market value.

26 (ii) The fair market value of the property on the date of  
27 sentencing. However, if the fair market value of the property

1 cannot be determined or is impractical to ascertain, then the  
2 replacement value of the property ~~shall~~**MUST** be utilized in lieu of  
3 the fair market value.

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

5 (4) If a crime results in physical or psychological injury to  
6 a victim, the order of restitution ~~shall~~**MUST** require that the  
7 defendant 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 crime.

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 and reasonably expected to be incurred as  
20 a result of the crime.

21 (e) Pay an amount equal to the reasonably determined costs of  
22 homemaking and child care expenses actually incurred and reasonably  
23 expected to be incurred as a result of the crime or, if homemaking  
24 or child care is provided without compensation by a relative,  
25 friend, or any other person, an amount equal to the costs that  
26 would reasonably be incurred as a result of the crime for that  
27 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~~**MUST** be estimated for each year the victim  
9 could 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 a crime resulting in bodily injury also results in the  
15 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 defendant make restitution in  
5 services in lieu of money.

6 (7) If the victim is deceased or dies, the court shall order  
7 that the restitution or remaining restitution be made to those  
8 entitled to inherit from the victim's estate.

9 **(8) IF THE CRIME FOR WHICH RESTITUTION IS ORDERED UNDER THIS**  
10 **SECTION WAS A VIOLATION OF SECTION 356(1) (H) THAT RESULTED IN A**  
11 **LOSS OF RENTAL INCOME TO THE VICTIM BECAUSE THE VIOLATION RENDERED**  
12 **THE RENTAL PROPERTY OWNED BY THE VICTIM UNINHABITABLE OR UNFIT FOR**  
13 **ITS INTENDED PURPOSE, THE COURT SHALL REQUIRE THAT THE DEFENDANT**  
14 **PAY AN AMOUNT EQUAL TO ANY LOSS OF RENTAL INCOME SUSTAINED BY THE**  
15 **VICTIM.**

16 **(9) ~~(8)~~**—The court shall order restitution to the crime victim  
17 services commission or to any individuals, partnerships,  
18 corporations, associations, governmental entities, or other legal  
19 entities that have compensated the victim or the victim's estate  
20 for a loss incurred by the victim to the extent of the compensation  
21 paid for that loss. The court shall also order restitution for the  
22 costs of services provided to persons or entities that have  
23 provided services to the victim as a result of the crime. Services  
24 that are subject to restitution under this subsection include, but  
25 are not limited to, shelter, food, clothing, and transportation.  
26 However, an order of restitution ~~shall~~ **MUST** require that all  
27 restitution to a victim or victim's estate under the order be made

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

7       (10) ~~(9)~~ Any amount paid to a victim or victim's estate under  
8 an order of restitution ~~shall~~ **MUST** be set off against any amount  
9 later recovered as compensatory damages by the victim or the  
10 victim's estate in any federal or state civil proceeding and ~~shall~~  
11 **MUST** reduce the amount payable to a victim or a victim's estate by  
12 an award from the crime victim services commission made after an  
13 order of restitution under this section.

14       (11) ~~(10)~~ If not otherwise provided by the court under this  
15 subsection, restitution ~~shall~~ **MUST** be made immediately. However,  
16 the court may require that the defendant make restitution under  
17 this section within a specified period or in specified  
18 installments.

19       (12) ~~(11)~~ If the defendant is placed on probation or paroled  
20 or the court imposes a conditional sentence as provided in section  
21 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL  
22 769.3, any restitution ordered under this section ~~shall~~ **MUST** be a  
23 condition of that probation, parole, or sentence. The court may  
24 revoke probation or impose imprisonment under the conditional  
25 sentence and the parole board may revoke parole if the defendant  
26 fails to comply with the order and if the defendant has not made a  
27 good faith effort to comply with the order. In determining whether

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

6 (13) ~~(12)~~ Subject to subsection ~~(18)~~, (19), 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 (14) ~~(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 the restitution in the same manner as a judgment in a civil action  
23 or a lien.

24 (15) ~~(14)~~ Notwithstanding any other provision of this section,  
25 a defendant ~~shall~~ **MUST** not be imprisoned, jailed, or incarcerated  
26 for a violation of probation or parole or otherwise for failure to  
27 pay restitution as ordered under this section unless the court or

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

4       **(16)** ~~(15)~~—If the court determines that a juvenile is or will  
5 be unable to pay all of the restitution ordered, after notice to  
6 the juvenile's parent or parents and an opportunity for the parent  
7 or parents to be heard the court may order the parent or parents  
8 having supervisory responsibility for the juvenile at the time of  
9 the acts upon which an order of restitution is based to pay any  
10 portion of the restitution ordered that is outstanding. An order  
11 under this subsection does not relieve the juvenile of his or her  
12 obligation to pay restitution as ordered, but the amount owed by  
13 the juvenile ~~shall~~ **MUST** be offset by any amount paid by his or her  
14 parent. As used in this subsection:

15       (a) "Juvenile" means a person within the court's jurisdiction  
16 under section 2d or 4 of chapter XIIIA of the probate code of 1939,  
17 1939 PA 288, MCL 712A.2d and 712A.4.

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

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

27       **(18)** ~~(17)~~—A parent who has been ordered to pay restitution

1 under subsection ~~(15)~~ **(16)** may petition the court for a  
2 modification of the amount of restitution owed by the parent or for  
3 a cancellation of any unpaid portion of the parent's obligation.

4 The court shall cancel all or part of the parent's obligation due  
5 if the court determines that payment of the amount due will impose  
6 a manifest hardship on the parent and if the court also determines  
7 that modifying the method of payment will not impose a manifest  
8 hardship on the victim.

9 **(19)** ~~(18)~~—In each case in which payment of restitution is  
10 ordered as a condition of probation, the court shall order any  
11 employed defendant to make regularly scheduled restitution  
12 payments. If the defendant misses 2 or more regularly scheduled  
13 payments, the court shall order the defendant to execute a wage  
14 assignment to pay the restitution. The probation officer assigned  
15 to the case shall review the case not less than twice yearly to  
16 ensure that restitution is being paid as ordered. If the  
17 restitution was ordered to be made within a specific period of  
18 time, the probation officer assigned to the case shall review the  
19 case at the end of the specific period of time to determine if the  
20 restitution has been paid in full. The final review ~~shall~~ **MUST** be  
21 conducted not less than 60 days before the probationary period  
22 expires. If the probation officer determines at any review that  
23 restitution is not being paid as ordered, the probation officer  
24 shall file a written report of the violation with the court on a  
25 form prescribed by the state court administrative office or shall  
26 petition the court for a probation violation. The report or  
27 petition ~~shall~~ **MUST** include a statement of the amount of the

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

8       **(20)** ~~(19)~~—If a defendant who is ordered to pay restitution  
9 under this section is remanded to the jurisdiction of the  
10 department of corrections, the court shall provide a copy of the  
11 order of restitution to the department of corrections when the  
12 defendant is remanded to the department's jurisdiction.

13       **(21)** ~~(20)~~—The court shall not impose a fee on a victim,  
14 victim's estate, or prosecuting attorney for enforcing an order of  
15 restitution.

16       **(22)** ~~(21)~~—If a person or entity entitled to restitution under  
17 this section cannot be located, refuses to claim the restitution  
18 within 2 years after the date on which he or she could have claimed  
19 the restitution, or refuses to accept the restitution, the  
20 restitution to which that person or entity is entitled ~~shall~~ **MUST**  
21 be deposited in the crime victim's rights fund created under  
22 section 4 of 1989 PA 196, MCL 780.904, or its successor fund.  
23 However, a person or entity entitled to that restitution may claim  
24 that restitution any time by applying to the court that originally  
25 ordered and collected it. The court shall notify the crime victim  
26 services commission of the application and the commission shall  
27 approve a reduction in the court's revenue transmittal to the crime

1 victim's rights fund equal to the restitution owed to the person or  
 2 entity. The court shall use the reduction to reimburse that  
 3 restitution to the person or entity.

4       **(23)** ~~(22)~~—The court may amend an order of restitution entered  
 5 under this section on a motion by the prosecuting attorney, the  
 6 victim, or the defendant based upon new information related to the  
 7 injury, damages, or loss for which the restitution was ordered.

8       **(24)** ~~(23)~~—A court that receives notice that a defendant who  
 9 has an obligation to pay restitution under this section has  
 10 declared bankruptcy shall forward a copy of that notice to the  
 11 prosecuting attorney. The prosecuting attorney shall forward the  
 12 notice to the victim at the victim's last known address.

13       **(25)** ~~(24)~~—If the victim is a minor, the order of restitution  
 14 ~~shall~~ **MUST** require the defendant to pay to a parent of the victim  
 15 an amount that is determined to be reasonable for any of the  
 16 following that are actually incurred or reasonably expected to be  
 17 incurred by the parent as a result of the crime:

18       (a) Homemaking and child care expenses.

19       (b) Income loss not ordered to be paid under subsection

20 (4) (h) .

21       (c) Mileage.

22       (d) Lodging or housing.

23       (e) Meals.

24       (f) Any other cost incurred in exercising the rights of the  
 25 victim or a parent under this act.

26       Sec. 44. (1) As used in this section only:

27       (a) "Offense" means a violation of a penal law of this state

1 or a violation of an ordinance of a local unit of government of  
2 this state punishable by imprisonment or by a fine that is not a  
3 civil fine.

4 (b) "Victim" means an individual who suffers direct or  
5 threatened physical, financial, or emotional harm as a result of  
6 the commission of an offense. As used in subsections (2), (3), (6),  
7 (8), (9), **(10)**, and ~~(13)~~ **(14)** only, victim includes a sole  
8 proprietorship, partnership, corporation, association, governmental  
9 entity, or any other legal entity that suffers direct physical or  
10 financial harm as a result of an offense.

11 (2) Except as provided in subsection ~~(8)~~, **(9)**, at the  
12 dispositional hearing or sentencing for an offense, the court shall  
13 order, in addition to or in lieu of any other disposition or  
14 penalty authorized by law, that the juvenile make full restitution  
15 to any victim of the juvenile's course of conduct that gives rise  
16 to the disposition or conviction or to the victim's estate. For an  
17 offense that is resolved informally by means of a consent calendar  
18 diversion or by another informal method that does not result in a  
19 dispositional hearing, by assignment to youthful trainee status, by  
20 a delayed sentence or deferred judgment of guilt, or in another way  
21 that is not an acquittal or unconditional dismissal, the court  
22 shall order the restitution required under this section.

23 (3) If an offense results in damage to or loss or destruction  
24 of property of a victim of the offense or results in the seizure or  
25 impoundment of property of a victim of the offense, the order of  
26 restitution ~~shall~~ **MUST** require that the juvenile do 1 or more of  
27 the following, as applicable:

1 (a) Return the property to the owner of the property or to a  
2 person designated by the owner.

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

8 (i) The fair market value of the property on the date of the  
9 damage, loss, or destruction. However, if the fair market value of  
10 the property cannot be determined or is impractical to ascertain,  
11 then the replacement value of the property ~~shall~~**MUST** be utilized  
12 in lieu of the fair market value.

13 (ii) The fair market value of the property on the date of  
14 disposition. However, if the fair market value of the property  
15 cannot be determined or is impractical to ascertain, then the  
16 replacement value of the property ~~shall~~**MUST** be utilized in lieu of  
17 the fair market value.

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

19 (4) If an offense results in physical or psychological injury  
20 to a victim, the order of restitution ~~shall~~**MUST** require that the  
21 juvenile do 1 or more of the following, as applicable:

22 (a) Pay an amount equal to the reasonably determined cost of  
23 medical and related professional services and devices actually  
24 incurred and reasonably expected to be incurred relating to  
25 physical and psychological care.

26 (b) Pay an amount equal to the reasonably determined cost of  
27 physical and occupational therapy and rehabilitation actually

1 incurred and reasonably expected to be incurred.

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

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

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

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

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

24 (h) Pay an amount equal to income actually lost by the spouse,  
25 parent, sibling, child, or grandparent of the victim because the  
26 family member left his or her employment, temporarily or  
27 permanently, to care for the victim because of the injury.

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

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

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

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

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

11 (e) Serious visible disfigurement.

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

13 (g) Measurable brain damage or mental impairment.

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

15 (i) Subdural hemorrhage or subdural hematoma.

16 (j) Loss of a body organ.

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

20 (7) If the victim is deceased or dies, the court shall order  
21 that the restitution or remaining restitution be made to those  
22 entitled to inherit from the victim's estate.

23 **(8) IF THE OFFENSE FOR WHICH RESTITUTION IS ORDERED UNDER THIS**  
24 **SECTION WAS A VIOLATION OF SECTION 356(1)(H) THAT RESULTED IN A**  
25 **LOSS OF RENTAL INCOME TO THE VICTIM BECAUSE THE VIOLATION RENDERED**  
26 **THE RENTAL PROPERTY OWNED BY THE VICTIM UNINHABITABLE OR UNFIT FOR**  
27 **ITS INTENDED PURPOSE, THE COURT SHALL REQUIRE THAT THE DEFENDANT**

1   **PAY AN AMOUNT EQUAL TO ANY LOSS OF RENTAL INCOME SUSTAINED BY THE**  
2   **VICTIM.**

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

21       **(10)** ~~(9)~~—Any amount paid to a victim or victim's estate under  
22  an order of restitution ~~shall~~**MUST** be set off against any amount  
23  later recovered as compensatory damages by the victim or the  
24  victim's estate in any federal or state civil proceeding and ~~shall~~  
25  **MUST** reduce the amount payable to a victim or a victim's estate by  
26  an award from the crime victim services commission made after an  
27  order of restitution under this section.

1       **(11)** ~~(10)~~ If not otherwise provided by the court under this  
2 subsection, restitution ~~shall~~ **MUST** be made immediately. However,  
3 the court may require that the juvenile make restitution under this  
4 section within a specified period or in specified installments.

5       **(12)** ~~(11)~~ If the juvenile is placed on probation, any  
6 restitution ordered under this section ~~shall~~ **MUST** be a condition of  
7 that probation. The court may revoke probation if the juvenile  
8 fails to comply with the order and if the juvenile has not made a  
9 good faith effort to comply with the order. In determining whether  
10 to revoke probation, the court shall consider the juvenile's  
11 employment status, earning ability, and financial resources, the  
12 willfulness of the juvenile's failure to pay, and any other special  
13 circumstances that may have a bearing on the juvenile's ability to  
14 pay.

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

24       **(14)** ~~(13)~~ An order of restitution entered under this section  
25 ~~remains~~ **IS** effective until it is satisfied in full. An order of  
26 restitution is a judgment and lien against all property of the  
27 individual ordered to pay restitution for the amount specified in

1 the order of restitution. The lien may be recorded as provided by  
2 law. An order of restitution may be enforced by the prosecuting  
3 attorney, a victim, a victim's estate, or any other person or  
4 entity named in the order to receive the restitution in the same  
5 manner as a judgment in a civil action or a lien.

6 (15) ~~(14)~~ Notwithstanding any other provision of this section,  
7 a juvenile ~~shall~~ **MUST** not be detained or imprisoned for a violation  
8 of probation or parole or otherwise for failure to pay restitution  
9 as ordered under this section unless the court determines that the  
10 juvenile has the resources to pay the ordered restitution and has  
11 not made a good faith effort to do so.

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

24 (17) ~~(16)~~ If the court orders a parent to pay restitution  
25 under subsection ~~(15)~~, **(16)**, the court shall take into account the  
26 parent's financial resources and the burden that the payment of  
27 restitution will impose, with due regard to any other moral or

1 legal financial obligations the parent may have. If a parent is  
2 required to pay restitution under subsection ~~(15)~~, **(16)**, the court  
3 shall provide for payment to be made in specified installments and  
4 within a specified period of time.

5 **(18)** ~~(17)~~—A parent who has been ordered to pay restitution  
6 under subsection ~~(15)~~—**(16)** may petition the court for a  
7 modification of the amount of restitution owed by the parent or for  
8 a cancellation of any unpaid portion of the parent's obligation.  
9 The court shall cancel all or part of the parent's obligation due  
10 if the court determines that payment of the amount due will impose  
11 a manifest hardship on the parent and if the court also determines  
12 that modifying the method of payment will not impose a manifest  
13 hardship on the victim.

14 **(19)** ~~(18)~~—In each case in which payment of restitution is  
15 ordered as a condition of probation, the court shall order any  
16 employed juvenile to make regularly scheduled restitution payments.  
17 If the juvenile misses 2 or more regularly scheduled payments, the  
18 court shall order the juvenile to execute a wage assignment to pay  
19 the restitution. The juvenile caseworker or probation officer  
20 assigned to the case shall review the case not less than twice  
21 yearly to ensure that restitution is being paid as ordered. If the  
22 restitution was ordered to be made within a specific period of  
23 time, the juvenile caseworker or probation officer assigned to the  
24 case shall review the case at the end of the specific period of  
25 time to determine if the restitution has been paid in full. The  
26 final review ~~shall~~ **MUST** be conducted not less than 60 days before  
27 the probationary period expires. If the juvenile caseworker or

1 probation officer determines at any review the restitution is not  
2 being paid as ordered, the juvenile caseworker or probation officer  
3 shall file a written report of the violation with the court on a  
4 form prescribed by the state court administrative office or shall  
5 petition the court for a probation violation. The report or  
6 petition ~~shall~~**MUST** include a statement of the amount of the  
7 arrearage, and any reasons for the arrearage known by the juvenile  
8 caseworker or probation officer. The juvenile caseworker or  
9 probation officer shall immediately provide a copy of the report or  
10 petition to the prosecuting attorney. If a petition or motion is  
11 filed or other proceedings are initiated to enforce payment of  
12 restitution and the court determines that restitution is not being  
13 paid or has not been paid as ordered by the court, the court shall  
14 promptly take action necessary to compel compliance.

15       **(20)** ~~(19)~~—If the court determines that an individual who is  
16 ordered to pay restitution under this section is remanded to the  
17 jurisdiction of the department of corrections, the court shall  
18 provide a copy of the order of restitution to the department of  
19 corrections when the court determines that the individual is  
20 remanded to the department's jurisdiction.

21       **(21)** ~~(20)~~—The court shall not impose a fee on a victim,  
22 victim's estate, or prosecuting attorney for enforcing an order of  
23 restitution.

24       **(22)** ~~(21)~~—If a person or entity entitled to restitution under  
25 this section cannot be located, refuses to claim the restitution  
26 within 2 years after the date on which he or she could have claimed  
27 the restitution, or refuses to accept the restitution, the

1 restitution to which that person or entity is entitled ~~shall~~**MUST**  
2 be deposited in the crime victim's rights fund created under  
3 section 4 of 1989 PA 196, MCL 780.904, or its successor fund.

4 However, a person or entity entitled to that restitution may claim  
5 that restitution any time by applying to the court that originally  
6 ordered and collected it. The court shall notify the crime victim  
7 services commission of the application and the commission shall  
8 approve a reduction in the court's revenue transmittal to the crime  
9 victim's rights fund equal to the restitution owed to the person or  
10 entity. The court shall use the reduction to reimburse that  
11 restitution to the person or entity.

12 (23) ~~(22)~~—The court may amend an order of restitution entered  
13 under this section on a motion by the prosecuting attorney, the  
14 victim, or the defendant based upon new information related to the  
15 injury, damages, or loss for which the restitution was ordered.

16 (24) ~~(23)~~—A court that receives notice that a defendant who  
17 has an obligation to pay restitution under this section has  
18 declared bankruptcy shall forward a copy of that notice to the  
19 prosecuting attorney. The prosecuting attorney shall forward the  
20 notice to the victim at the victim's last known address.

21 (25) ~~(24)~~—If the victim is a minor, the order of restitution  
22 ~~shall~~**MUST** require the defendant to pay to a parent of the victim  
23 an amount that is determined to be reasonable for any of the  
24 following that are actually incurred or reasonably expected to be  
25 incurred by the parent as a result of the crime:

26 (a) Homemaking and child care expenses.

27 (b) Income loss not ordered to be paid under subsection

1 (4) (h) .

2 (c) Mileage.

3 (d) Lodging or housing.

4 (e) Meals.

5 (f) Any other cost incurred in exercising the rights of the  
6 victim or a parent under this act.

7 Sec. 76. (1) As used in this section only:

8 (a) "Misdemeanor" means a violation of a law of this state or  
9 a local ordinance that is punishable by imprisonment for not more  
10 than 1 year or a fine that is not a civil fine, but that is not a  
11 felony.

12 (b) "Victim" means an individual who suffers direct or  
13 threatened physical, financial, or emotional harm as a result of  
14 the commission of a misdemeanor. As used in subsections (2), (3),  
15 (6), (8), (9), **(10)**, and ~~(13)~~ **(14)** only, victim includes a sole  
16 proprietorship, partnership, corporation, association, governmental  
17 entity, or any other legal entity that suffers direct physical or  
18 financial harm as a result of a misdemeanor.

19 (2) Except as provided in subsection ~~(8)~~ **(9)**, when sentencing  
20 a defendant convicted of a misdemeanor, the court shall order, in  
21 addition to or in lieu of any other penalty authorized by law or in  
22 addition to any other penalty required by law, that the defendant  
23 make full restitution to any victim of the defendant's course of  
24 conduct that gives rise to the conviction or to the victim's  
25 estate. For an offense that is resolved by assignment of the  
26 defendant to youthful trainee status, by a delayed sentence or  
27 deferred judgment of guilt, or in another way that is not an

1 acquittal or unconditional dismissal, the court shall order the  
2 restitution required under this section.

3 (3) If a misdemeanor results in damage to or loss or  
4 destruction of property of a victim of the misdemeanor or results  
5 in the seizure or impoundment of property of a victim of the  
6 misdemeanor, the order of restitution ~~shall~~**MUST** require that the  
7 defendant do 1 or more of the following, as applicable:

8 (a) Return the property to the owner of the property or to a  
9 person designated by the owner.

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

15 (i) The fair market value of the property on the date of the  
16 damage, loss, or destruction. However, if the fair market value of  
17 the property cannot be determined or is impractical to ascertain,  
18 then the replacement value of the property ~~shall~~**MUST** be utilized  
19 in lieu of the fair market value.

20 (ii) The fair market value of the property on the date of  
21 sentencing. However, if the fair market value of the property  
22 cannot be determined or is impractical to ascertain, then the  
23 replacement value of the property ~~shall~~**MUST** be utilized in lieu of  
24 the fair market value.

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

26 (4) If a misdemeanor results in physical or psychological  
27 injury to a victim, the order of restitution ~~shall~~**MUST** require

1 that the defendant do 1 or more of the following, as applicable:

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

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

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

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

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

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

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

1 the loss of the tax deduction or tax credit. The amount of  
2 reimbursement ~~shall~~**MUST** be estimated for each year the victim  
3 could reasonably be claimed as a dependent.

4 (h) Pay an amount equal to income actually lost by the spouse,  
5 parent, sibling, child, or grandparent of the victim because the  
6 family member left his or her employment, temporarily or  
7 permanently, to care for the victim because of the injury.

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

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

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

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

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

18 (e) Serious visible disfigurement.

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

20 (g) Measurable brain damage or mental impairment.

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

22 (i) Subdural hemorrhage or subdural hematoma.

23 (j) Loss of a body organ.

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

27 (7) If the victim is deceased or dies, the court shall order

1 that the restitution or remaining restitution be made to those  
2 entitled to inherit from the victim's estate.

3       **(8) IF THE MISDEMEANOR FOR WHICH RESTITUTION IS ORDERED UNDER**  
4 **THIS SECTION WAS A VIOLATION OF SECTION 356(1) (H) THAT RESULTED IN**  
5 **A LOSS OF RENTAL INCOME TO THE VICTIM BECAUSE THE VIOLATION**  
6 **RENDERED THE RENTAL PROPERTY OWNED BY THE VICTIM UNINHABITABLE OR**  
7 **UNFIT FOR ITS INTENDED PURPOSE, THE COURT SHALL REQUIRE THAT THE**  
8 **DEFENDANT PAY AN AMOUNT EQUAL TO ANY LOSS OF RENTAL INCOME**  
9 **SUSTAINED BY THE VICTIM.**

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

1           (10) ~~(9)~~ Any amount paid to a victim or victim's estate under  
2 an order of restitution ~~shall~~ **MUST** be set off against any amount  
3 later recovered as compensatory damages by the victim or the  
4 victim's estate in any federal or state civil proceeding and ~~shall~~  
5 **MUST** reduce the amount payable to a victim or a victim's estate by  
6 an award from the crime victim services commission made after an  
7 order of restitution under this section.

8           (11) ~~(10)~~ If not otherwise provided by the court under this  
9 subsection, restitution ~~shall~~ **MUST** be made immediately. However,  
10 the court may require that the defendant make restitution under  
11 this section within a specified period or in specified  
12 installments.

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

26           (13) ~~(12)~~ Subject to subsection ~~(15)~~, **(16)**, a defendant who is  
27 required to pay restitution and who is not in willful default of

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

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

17       **(15)** ~~(14)~~—Notwithstanding any other provision of this section,  
18 a defendant ~~shall~~**MUST** not be imprisoned, jailed, or incarcerated  
19 for a violation of probation or otherwise for failure to pay  
20 restitution as ordered under this section unless the court  
21 determines that the defendant has the resources to pay the ordered  
22 restitution and has not made a good faith effort to do so.

23       **(16)** ~~(15)~~—In each case in which payment of restitution is  
24 ordered as a condition of probation, the court shall order any  
25 employed defendant to make regularly scheduled restitution  
26 payments. If the defendant misses 2 or more regularly scheduled  
27 payments, the court shall order the defendant to execute a wage

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

22 (17) ~~(16)~~ If the court determines that a defendant who is  
23 ordered to pay restitution under this section is remanded to the  
24 jurisdiction of the department of corrections, the court shall  
25 provide a copy of the order of restitution to the department of  
26 corrections when the court determines that the defendant is  
27 remanded to the department's jurisdiction.

1           (18) ~~(17)~~—The court shall not impose a fee on a victim,  
2 victim's estate, or prosecuting attorney for enforcing an order of  
3 restitution.

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

19           (20) ~~(19)~~—The court may amend an order of restitution entered  
20 under this section on a motion by the prosecuting attorney, the  
21 victim, or the defendant based upon new information related to the  
22 injury, damages, or loss for which the restitution was ordered.

23           (21) ~~(20)~~—A court that receives notice that a defendant who  
24 has an obligation to pay restitution under this section has  
25 declared bankruptcy shall forward a copy of that notice to the  
26 prosecuting attorney. The prosecuting attorney shall forward the  
27 notice to the victim at the victim's last known address.

1           **(22)** ~~(21)~~ If the victim is a minor, the order of restitution  
2 ~~shall~~ **MUST** require the defendant pay to a parent of the victim an  
3 amount that is determined to be reasonable for any of the following  
4 that are actually incurred or reasonably expected to be incurred by  
5 the parent as a result of the crime:

6           (a) Homemaking and child care expenses.

7           (b) Income loss not ordered to be paid under subsection  
8 (4) (h) .

9           (c) Mileage.

10          (d) Lodging or housing.

11          (e) Meals.

12          (f) Any other cost incurred in exercising the rights of the  
13 victim or a parent under this act.

14          Enacting section 1. This amendatory act takes effect 90 days  
15 after the date it is enacted into law.

16          Enacting section 2. This amendatory act does not take effect  
17 unless Senate Bill No. \_\_\_\_ or House Bill No. 5008 (request no.  
18 03521'17) of the 99th Legislature is enacted into law.