

# Legislative Analysis



## ALLOW VISUAL REPRESENTATIONS OF CRIME VICTIMS TO BE BLURRED IN STREAMED COURT PROCEEDINGS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

### House Bill 4421 as reported from committee

**Sponsor: Rep. Stephanie A. Young**

**Committee: Criminal Justice**

**Complete to 6-6-23**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 179 of 2023)*

### SUMMARY:

House Bill 4421 would amend the William Van Regenmorter Crime Victim's Rights Act to allow a crime victim's image to be blurred in certain court proceedings made available to the public. The act currently exempts certain information and visual representations of a crime victim from disclosure under the Freedom of Information Act (FOIA), including a picture, photograph, drawing, or other visual representation of the victim, such as a film, videotape, or digitally stored image. The bill would additionally allow such a picture, photograph, drawing, or other visual representation to be blurred if it is from a court proceeding that is made available to the public through streaming on the internet or other means.

MCL 780.758 et seq.

### BACKGROUND:

House Bill 4421 is a reintroduction of House Bill 5680 of the 2021-22 legislative session, which was passed by the House of Representatives.

### BRIEF DISCUSSION:

It is not uncommon for technological advances to outpace current laws or how courts may conduct various proceedings. The increase in the use of Zoom and other platforms to conduct a variety of business remotely has extended to how courts operate. Changes in law and court rules now encourage or require proceedings to be done remotely to increase court efficiency and better accommodate those involved. For instance, allowing testimony to be given remotely may relieve a witness from having to travel across the state or sit for hours waiting to be called to the stand. Allowing many court proceedings to be livestreamed or the public to access archived videos has provided more public access.

While the law exempts certain information and visual representations of a crime victim from disclosure under FOIA, it currently does not apply to images during a proceeding that is being livestreamed or to any type of reproduction of images of a crime victim from a court proceeding that has been made available on the internet. The bill would expand current protections for victims by allowing the image of a victim to be blurred in any livestream of a court proceeding or in any reproduction of their image from a court proceeding made available to the public through other means. Allowing blurring of

victims' images will protect their identities. Supporters argue that this is particularly important as the internet has given rise to the practice of people trolling Zoom streams and using images from the stream or reproductions to harass, humiliate, and intimidate victims.

However, not all agree that the bill as currently written would provide a sufficient level of protection to victims. Concerns have been raised that the bill, while it appears to provide some additional privacy protections to victims, could instead adversely impact the privacy and confidentiality of victims and so discourage their participation in the criminal justice system. Although recent changes to court processes and court rules regarding the use of teleconferencing instead of in-person appearances provide that teleconferencing should not be used in bench or jury trials or evidentiary hearings, judges retain discretion to order a proceeding to be teleconferenced rather than be held in person. Victims are not considered a party in a criminal action, which means the factors regarding the constitutional rights of a party that are used by a court in deciding whether to allow or deny a criminal proceeding to be teleconferenced may not apply to a victim who will be testifying. In addition, House Bill 4421 is permissive. That is, it allows, but does not require, the face of a victim to be blurred when their image is livestreamed or when an archived video is accessed by a public viewer. It is also unclear whether other characteristics of a victim that could identify them, such as their voice, would be altered.

It can be difficult for a victim or survivor of a crime to testify in open court for several reasons, including fear of retaliation and humiliation in recounting certain details, even without the added concerns related to teleconferencing. Courts differ across the state in both practice and technology regarding teleconferencing, and many challenges must be overcome, such as purchasing, installing, and maintaining the software needed to blur a victim's face both when livestreaming and when recording the proceeding for later viewing by the public, in addition to dedicating court staff to monitor the process. The number in attendance in a courtroom is limited to the size of the room, but a proceeding that is livestreamed, with archived video made available on streaming channels, is viewable by a much larger audience. For these reasons, critics say, the bill could have a chilling effect on the willingness of a victim or survivor to testify, especially if they are concerned that the blurring filter may be inadequate to conceal their identity, or even not used, putting their physical safety and emotional well-being at risk.

Some opponents of the bill argue that, to increase the privacy and confidentiality of victims of crimes, the bill should require (not just allow) their images to be blurred in any livestreams or reproductions from livestreams made available to the public. The Michigan Domestic and Sexual Violence and Treatment Board maintained in written testimony that the best way to maximize victim safety and confidentiality would be to not livestream victim testimony at all and to not make their testimony available for public viewing outside of the courtroom.

#### **FISCAL IMPACT:**

House Bill 4421 would have an indeterminate fiscal impact on local units of government. The State Court Administrative Office has indicated that local courts would have to

purchase and deploy software that would enable courts to blur victims' faces while on Zoom. This would also require a designated staff person to actively manage the filter. The costs for the software are not known at this time.

**POSITIONS:**

Representatives of the following entities testified in support of the bill (5-16-23):

- Michigan Coalition to End Domestic and Sexual Violence
- Prosecuting Attorneys Association of Michigan

Representatives of the following entities indicated support for the bill:

- State Bar of Michigan (5-23-23)
- Michigan Catholic Conference (5-23-23)
- Michigan Poverty Law Program (5-16-23)

The Michigan Domestic and Sexual Violence Prevention and Treatment Board indicated opposition to the bill. (5-16-23)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Robin Risko

---

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.