

WILLIAM VAN REGENMORTER CRIME VICTIM'S RIGHTS ACT (EXCERPT)
Act 87 of 1985

ARTICLE 1

780.751 Short title.

Sec. 1. This act shall be known and may be cited as the "William Van Regenmorter crime victim's rights act".

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

780.752 Definitions; designation of person to act in place of victim; individual charged with offense arising out of same transaction; eligibility to exercise privileges and rights established for victims.

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

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

(b) "Crime" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year or an offense expressly designated by law as a felony.

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

(d) "Defendant" means a person charged with, convicted of, or found not guilty by reason of insanity of committing a crime against a victim.

(e) "Facility", as used in sections 6, 13a, 19a, and 20 only, and not with reference to a juvenile facility, means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(f) "Final disposition" means the ultimate termination of the criminal prosecution of a defendant including, but not limited to, dismissal, acquittal, or imposition of sentence by the court.

(g) "Juvenile" means a person within the jurisdiction of the circuit court under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606.

(h) "Juvenile facility" means a county facility, institution operated as an agency of the county or the family division of circuit court, or an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, to which a juvenile has been committed or in which a juvenile is detained.

(i) "Hospital" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(j) "Person" means an individual, organization, partnership, corporation, or governmental entity.

(k) "Prisoner" means a person who has been convicted and sentenced to imprisonment or placement in a juvenile facility for having committed a crime or an act that would be a crime if committed by an adult against a victim.

(l) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, or a special prosecuting attorney.

(m) "Victim" means any of the following:

(i) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime, except as provided in subparagraph (ii), (iii), (iv), or (v).

(ii) The following individuals other than the defendant if the victim is deceased, except as provided in subparagraph (v):

(A) The spouse of the deceased victim.

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

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

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

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

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

(iii) A parent, guardian, or custodian of the victim, if the victim is less than 18 years of age, who is neither the defendant nor incarcerated, if the parent, guardian, or custodian so chooses.

(iv) A parent, guardian, or custodian of a victim who is mentally or emotionally unable to participate in the legal process if he or she is neither the defendant nor incarcerated.

(v) For the purpose of submitting or making an impact statement only, if the victim as defined in

subparagraph (i) is deceased, is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process, or consents to the designation as a victim of the following individuals other than the defendant:

(A) The spouse of the victim.

(B) A child of the victim if the child is 18 years of age or older.

(C) A parent of the victim.

(D) The guardian or custodian of a child of the victim if the child is less than 18 years of age.

(E) A sibling of the victim.

(F) A grandparent of the victim.

(G) A guardian or custodian of the victim if the victim is less than 18 years of age at the time of the commission of the crime and that guardian or custodian is not incarcerated.

(2) If a victim as defined in subsection (1)(m)(i) is physically or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse, child 18 years of age or older, parent, sibling, grandparent, or any other person 18 years of age or older who is neither the defendant nor incarcerated to act in his or her place while the physical or emotional disability continues. The victim shall provide the prosecuting attorney with the name of the person who is to act in his or her place. During the physical or emotional disability, notices to be provided under this article to the victim must continue to be sent only to the victim.

(3) An individual who is charged with a crime 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 under this article.

(4) An individual who is incarcerated is not eligible to exercise the privileges and rights established for victims under this article except that he or she may submit a written statement to the court for consideration at sentencing.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2009, Act 28, Eff. July 1, 2009;—Am. 2014, Act 133, Eff. July 1, 2014;—Am. 2018, Act 370, Eff. Mar. 17, 2019.

Compiler's note: Enacting section 1 of Act 28 of 2009 provides:

"Enacting section 1. This amendatory act takes effect July 1, 2009, and applies only to crimes committed on and after that date."

780.752a Duty to provide notice to victim; furnishing information or records; exception for address confidentiality program.

Sec. 2a. (1) The duty under this article and under section 24 of article I of the state constitution of 1963 of a court, the department of corrections, the department of health and human services, a county sheriff, or a prosecuting attorney to provide a notice to a victim also applies if the case against the defendant is resolved by assignment of the defendant to trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal. In performing a duty under this article or under section 24 of article I of the state constitution of 1963, the court, department of corrections, department of health and human services, county sheriff, or prosecuting attorney may furnish information or records to the victim that would otherwise be closed to public inspection, including information or records described in section 14 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.14.

(2) In performing a duty to provide notice by mail under this article or under section 24 of article I of the state constitution of 1963, the court, department of corrections, department of health and human services, county sheriff, or prosecuting attorney shall mail the notice to the address provided by the victim, except as otherwise provided under section 11 of the address confidentiality program act. If the victim is a program participant as that term is defined in section 3 of the address confidentiality program act, the victim may provide the address designated by the department of the attorney general.

History: Add. 2006, Act 461, Eff. Jan. 1, 2007;—Am. 2020, Act 276, Imd. Eff. Dec. 29, 2020.

780.753 Information to be given victim.

Sec. 3. Within 24 hours after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency shall give to the victim the following information in writing:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and telephone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statements:

"If you would like to be notified of an arrest in your case or the release of the person arrested, or both, you should call [identify law enforcement agency and telephone number] and inform them."

"If you are not notified of an arrest in your case, you may call this law enforcement agency at [the law enforcement agency's telephone number] for the status of the case."

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

780.754 Return of property to victim; retention of evidence.

Sec. 4. (1) The law enforcement agency having responsibility for investigating a reported crime shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the crime and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

History: 1985, Act 87, Eff. Oct. 9, 1985.

780.754a Victim of identity theft; filing police report; jurisdiction; "identity theft" defined.

Sec. 4a. (1) To facilitate compliance with 15 USC 1681g, a bona fide victim of identity theft is entitled to file a police report with a law enforcement agency in a jurisdiction where the alleged violation of identity theft may be prosecuted as provided under section 10c of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.10c, and to obtain a copy of that report from that law enforcement agency.

(2) As used in this section, "identity theft" means that term as defined in section 3 of the identity theft protection act.

History: Add. 2004, Act 456, Eff. Mar. 1, 2005.

780.755 Victim to be given notice of availability of pretrial release, telephone number of sheriff or juvenile facility, and notice of right to contact sheriff or juvenile facility; revocation of bond or personal recognizance.

Sec. 5. (1) Not later than 24 hours after the arraignment of the defendant for a crime, the law enforcement agency having responsibility for investigating the crime shall give to the victim notice of the availability of pretrial release for the defendant, the telephone number of the sheriff or juvenile facility, and notice that the victim may contact the sheriff or juvenile facility to determine whether the defendant has been released from custody. The law enforcement agency having responsibility for investigating the crime shall promptly notify the victim of the arrest or pretrial release of the defendant, or both, if the victim requests or has requested that information. If the defendant is released from custody by the sheriff or juvenile facility, the sheriff or juvenile facility shall notify the law enforcement agency having responsibility for investigating the crime.

(2) Based upon any credible evidence of acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

780.756 Notice to be given victim; consultation with prosecuting attorney; persons to be informed of victim's current address and telephone number.

Sec. 6. (1) Not later than 7 days after the defendant's arraignment for a crime, but not less than 24 hours before a preliminary examination, the prosecuting attorney shall give to each victim a written notice in plain English of each of the following:

(a) A brief statement of the procedural steps in the processing of a criminal case.

(b) A specific list of the rights and procedures under this article.

(c) A convenient means for the victim to notify the prosecuting attorney that the victim chooses to exercise his or her rights under this article.

(d) Details and eligibility requirements for compensation from the crime victim services commission under 1976 PA 223, MCL 18.351 to 18.368.

(e) Suggested procedures if the victim is subjected to threats or intimidation.

(f) The person to contact for further information.

(2) If the victim requests, the prosecuting attorney shall give the victim notice of any scheduled court proceedings and any changes in that schedule.

(3) Before finalizing any negotiation that may result in a dismissal, plea or sentence bargain, or pretrial diversion, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the victim's views about the disposition of the prosecution for the crime, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

(4) A victim who receives a notice under subsection (1) and who chooses to receive any notice or exercise any right under this article shall keep the following persons informed of the victim's current address or address designated by the department of the attorney general if he or she is a program participant as that term is defined in section 3 of the address confidentiality program act and telephone number:

(a) The prosecuting attorney, until final disposition or completion of the appellate process, whichever occurs later.

(b) The department of corrections or the sheriff, as the prosecuting attorney directs, if the defendant is imprisoned.

(c) The department of health and human services or county juvenile agency, as the prosecuting attorney directs, if the defendant is held in a juvenile facility.

(d) The hospital or facility, as the prosecuting attorney directs, if the defendant is hospitalized in or admitted to a hospital or a facility.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2020, Act 276, Imd. Eff. Dec. 29, 2020.

780.757 Waiting area for victim or other safeguards.

Sec. 7. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.

History: 1985, Act 87, Eff. Oct. 9, 1985.

780.758 Motion not to compel testimony of victim or other witness; hearing; address and phone number of victim not to be in court file or documents; exemption from disclosure; exception.

Sec. 8. (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.

(2) The work address and address of the victim shall not be in the court file or ordinary court documents unless contained in a transcript of the trial or it is used to identify the place of the crime. The work telephone number and telephone number of the victim shall not be in the court file or ordinary court documents except as contained in a transcript of the trial.

(3) Under section 24 of article I of the state constitution of 1963, guaranteeing to crime victims the right to be treated with respect for their dignity and privacy, all of the following information and visual representations of a victim are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) The home address, home telephone number, work address, and work telephone number of the victim unless the address is used to identify the place of the crime.

(b) A picture, photograph, drawing, or other visual representation, including any film, videotape, or digitally stored image of the victim.

(c) The following information concerning a victim of child abuse, criminal sexual conduct, assault with intent to commit criminal sexual conduct, or a similar crime who was less than 18 years of age when the crime was committed:

(i) The victim's name and address.

(ii) The name and address of an immediate family member or relative of the victim, who has the same surname as the victim, other than the name and address of the accused.

(iii) Any other information that would tend to reveal the identity of the victim, including a reference to the victim's familial or other relationship to the accused.

(4) Subsection (3) does not preclude the release of information to a victim advocacy organization or

agency for the purpose of providing victim services.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2012, Act 457, Imd. Eff. Dec. 27, 2012.

780.759 Speedy trial; requirements; hearing; notice; time of trial.

Sec. 9. (1) As provided in subsection (2), a speedy trial may be scheduled for any case in which the victim is declared by the prosecuting attorney to be any of the following:

(a) A victim of child abuse, including sexual abuse or any other assaultive crime.

(b) A victim of criminal sexual conduct in the first, second, or third degree or of an assault with intent to commit criminal sexual conduct involving penetration or to commit criminal sexual conduct in the second degree.

(c) Sixty-five years of age or older.

(d) An individual with a disability that inhibits the individual's ability to attend court or participate in the proceedings.

(2) The chief judge, upon motion of the prosecuting attorney for a speedy trial for a case described in subsection (1), shall set a hearing date within 14 days of the date of the filing of the motion. Notice shall be made pursuant to the Michigan court rules. If the motion is granted, the trial shall not be scheduled earlier than 21 days from the date of the hearing.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1993, Act 341, Eff. May 1, 1994.

780.760 Conference with victim by prosecuting attorney.

Sec. 10. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the selection of the jury and prior to the trial of the defendant.

History: 1985, Act 87, Eff. Oct. 9, 1985.

780.761 Presence of victim at trial; sequestering victim.

Sec. 11. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies. The victim shall not be sequestered after he or she first testifies.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001.

780.762 Discharge or discipline of victim or victim representative by employer or employer's agent as misdemeanor; penalty; "victim representative" defined.

Sec. 12. (1) An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and may be punished for contempt of court.

(2) An employer or an employer's agent who disciplines or discharges a victim representative from employment, causes a victim representative to be disciplined or discharged from employment, or threatens to discipline or discharge a victim representative from employment because that victim representative attends or desires to attend court to be present during the testimony of the victim, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and may be punished for contempt of court.

(3) As used in this section, "victim representative" means any of the following:

(a) A guardian or custodian of a child of a deceased victim if the child is less than 18 years of age.

(b) A parent, guardian, or custodian of a victim of an assaultive crime if the victim of the assaultive crime is less than 18 years of age.

(c) A person who has been designated under section 2(2) to act in place of a victim of an assaultive crime during the duration of the victim's physical or emotional disability.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1993, Act 341, Eff. May 1, 1994.

780.763 Notice to be given victim by prosecuting attorney; means; contents of impact statement.

Sec. 13. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

(a) The defendant's conviction.

(b) The crimes for which the defendant was convicted.

(c) The victim's right to make a written or oral impact statement for use in the preparation of a presentence investigation report concerning the defendant.

(d) The address and telephone number of the probation office which is to prepare the presentence investigation report.

(e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.

(f) The victim's right to make an impact statement at sentencing.

(g) The time and place of the sentencing proceeding.

(2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.

(3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to the following:

(a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.

(b) An explanation of the extent of any economic loss or property damage suffered by the victim.

(c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.

(d) The victim's recommendation for an appropriate sentence.

History: 1985, Act 87, Eff. Oct. 9, 1985.

780.763a Providing victim with form to receive certain notices.

Sec. 13a. (1) When a defendant is sentenced to probation, sentenced to a term of imprisonment, ordered to be placed in a juvenile facility, or hospitalized in or admitted to a hospital or a facility, the prosecuting attorney shall provide the victim with a form the victim may submit to receive the notices provided for under section 18b, 19, 19a, 20, or 20a. The form must include the address of the court, the department of corrections, the sheriff, the department of health and human services, the county juvenile agency, or the hospital or facility, as applicable, to which the form may be sent and a statement that the victim may use the address designated by the department of the attorney general to receive notices if the victim is a program participant as that term is defined in section 3 of the address confidentiality program act.

(2) If the defendant is sentenced to probation, the department of corrections or the sheriff, as applicable, shall notify the victim if the probation is revoked and the defendant is sentenced to the department of corrections or to jail for more than 90 days. The notice must include a form the victim may submit to the department of corrections or the sheriff to receive notices under section 19, 20, or 20a.

(3) If the department of corrections determines that a defendant who was, in the defendant's judgment of sentence, not prohibited from being or permitted to be placed in the special alternative incarceration unit established under section 3 of the special alternative incarceration act, 1988 PA 287, MCL 798.13, meets the eligibility requirements of section 34a(2) and (3) of the corrections code of 1953, 1953 PA 232, MCL 791.234a, the department of corrections shall notify the victim, if the victim has submitted a written request for notification under section 19, of the proposed placement of the defendant in the special alternative incarceration unit not later than 30 days before placement is intended to occur. In making the decision on whether or not to object to the placement of the defendant in a special alternative incarceration unit as required by section 34a(4) of the corrections code of 1953, 1953 PA 232, MCL 791.234a, the sentencing judge or the judge's successor shall review an impact statement submitted by the victim under section 14.

History: Add. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007;—Am. 2020, Act 276, Imd. Eff. Dec. 29, 2020.

780.764 Impact statement generally.

Sec. 14. The victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing a presentence investigation report concerning the defendant pursuant to section 14 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.14. A victim's written statement shall upon the victim's request, be included in the presentence investigation report.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001.

780.765 Oral impact statement at sentencing; physical presence of defendant; amendatory act to be known and cited as "Rebekah Bletsch law".

Sec. 15. (1) The victim has the right to appear and make an oral impact statement at the sentencing of the defendant. If the victim is physically or emotionally unable to make the oral impact statement, the victim may designate any other person 18 years of age or older who is neither the defendant nor incarcerated to make the

statement on his or her behalf. The other person need not be an attorney.

(2) Unless the court has determined, in its discretion, that the defendant is behaving in a disruptive manner or presents a threat to the safety of any individuals present in the courtroom, the defendant must be physically present in the courtroom at the time a victim makes an oral impact statement under subsection (1). In making its determination under this subsection, the court may consider any relevant statement provided by the victim regarding the defendant being physically present during that victim's oral impact statement. This subsection applies to cases in which the sentencing of the defendant occurs on or after the effective date of the amendatory act that added this subsection.

(3) The 2018 amendatory act that amended this section and sections 43 and 75 shall be known and may be cited as the "Rebekah Bletsch law".

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2018, Act 153, Imd. Eff. May 23, 2018.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

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

(2) Except as provided in subsection (8), when sentencing a defendant convicted of a crime, the court shall order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make full restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate. For an offense that is resolved by assignment of the defendant to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order the restitution required under this section.

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

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

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

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

(ii) The fair market value of the property on the date of sentencing. However, if the fair market value of the property cannot be determined or is impractical to ascertain, then the replacement value of the property shall be utilized in lieu of the fair market value.

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

(4) If a crime results in physical or psychological injury to a victim, the order of restitution shall require that the defendant do 1 or more of the following, as applicable:

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

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

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

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

(e) Pay an amount equal to the reasonably determined costs of homemaking and child care expenses actually incurred and reasonably expected to be incurred as a result of the crime or, if homemaking or child

care is provided without compensation by a relative, friend, or any other person, an amount equal to the costs that would reasonably be incurred as a result of the crime for that homemaking and child care, based on the rates in the area for comparable services.

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

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

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

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

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

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

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

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

(e) Serious visible disfigurement.

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

(g) Measurable brain damage or mental impairment.

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

(i) Subdural hemorrhage or subdural hematoma.

(j) Loss of a body organ.

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

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

(8) The court shall order restitution to the crime victim services commission or to any individuals, partnerships, corporations, associations, governmental entities, or other legal entities that have compensated the victim or the victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The court shall also order restitution for the costs of services provided to persons or entities that have provided services to the victim as a result of the crime. Services that are subject to restitution under this subsection include, but are not limited to, shelter, food, clothing, and transportation. However, an order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person or entity under that order is made. The court shall not order restitution to be paid to a victim or victim's estate if the victim or victim's estate has received or is to receive compensation for that loss, and the court shall state on the record with specificity the reasons for its action.

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

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

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

(12) Subject to subsection (18), a defendant who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest

hardship on the defendant or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

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

(14) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court or parole board determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

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

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

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

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

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

(18) In each case in which payment of restitution is ordered as a condition of probation, the court shall order any employed defendant to make regularly scheduled restitution payments. If the defendant misses 2 or more regularly scheduled payments, the court shall order the defendant to execute a wage assignment to pay the restitution. The probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. If the restitution was ordered to be made within a specific period of time, the probation officer assigned to the case shall review the case at the end of the specific period of time to determine if the restitution has been paid in full. The final review shall be conducted not less than 60 days before the probationary period expires. If the probation officer determines at any review that restitution is not being paid as ordered, the probation officer shall file a written report of the violation with the court on a form prescribed by the state court administrative office or shall petition the court for a probation violation. The report or petition shall include a statement of the amount of the arrearage and any reasons for the arrearage known by the probation officer. The probation officer shall immediately provide a copy of the report or petition to the prosecuting attorney. If a petition or motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been paid as ordered by the court, the court shall promptly take action necessary to compel compliance.

(19) If a defendant who is ordered to pay restitution under this section is remanded to the jurisdiction of the department of corrections, the court shall provide a copy of the order of restitution to the department of corrections when the defendant is remanded to the department's jurisdiction.

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

(21) If a person or entity entitled to restitution under this section cannot be located, refuses to claim the restitution within 2 years after the date on which he or she could have claimed the restitution, or refuses to accept the restitution, the restitution to which that person or entity is entitled shall be deposited in the crime victim's rights fund created under section 4 of 1989 PA 196, MCL 780.904, or its successor fund. However, a person or entity entitled to that restitution may claim that restitution any time by applying to the court that originally ordered and collected it. The court shall notify the crime victim services commission of the

application and the commission shall approve a reduction in the court's revenue transmittal to the crime victim's rights fund equal to the restitution owed to the person or entity. The court shall use the reduction to reimburse that restitution to the person or entity.

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

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

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

- (a) Homemaking and child care expenses.
- (b) Income loss not ordered to be paid under subsection (4)(h).
- (c) Mileage.
- (d) Lodging or housing.
- (e) Meals.
- (f) Any other cost incurred in exercising the rights of the victim or a parent under this act.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1986, Act 234, Imd. Eff. Oct. 6, 1986;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 121, Eff. May 1, 1996;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 1998, Act 232, Imd. Eff. July 3, 1998;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2009, Act 28, Eff. July 1, 2009;—Am. 2013, Act 139, Imd. Eff. Oct. 22, 2013.

Compiler's note: Enacting section 1 of Act 28 of 2009 provides:

"Enacting section 1. This amendatory act takes effect July 1, 2009, and applies only to crimes committed on and after that date."

For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

780.766a Fines, costs, and assessments or payments other than victim payments; allocation of payments; priority; "victim payment" defined.

Sec. 16a. (1) If a person is subject to any combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments ordered to be paid in that proceeding shall be allocated as provided in this section. If a person is subject to fines, costs, restitution, assessments, probation or parole supervision fees, or other payments in more than 1 proceeding in a court and if a person making a payment on the fines, costs, restitution, assessments, probation or parole supervision fees, or other payments does not indicate the proceeding for which the payment is made, the court shall first apply the money paid to a proceeding in which there is unpaid restitution to be allocated as provided in this section.

(2) Except as otherwise provided in this subsection, if a person is subject to payment of victim payments and any combination of other fines, costs, assessments, probation or parole supervision fees, or other payments, 50% of each payment collected by the court from that person shall be applied to payment of victim payments, and the balance shall be applied to payment of fines, costs, supervision fees, and other assessments or payments. If a person making a payment indicates that the payment is to be applied to victim payments, or if the payment is received as a result of a wage assignment under section 16 or from the department of corrections or sheriff under section 17a, the payment shall first be applied to victim payments. If any fines, costs, supervision fees, or other assessments or payments remain unpaid after all of the victim payments have been paid, any additional money collected shall be applied to payment of those fines, costs, supervision fees, or other assessments or payments. If any victim payments remain unpaid after all of the fines, costs, supervision fees, or other assessments or payments have been paid, any additional money collected shall be applied to payment of those victim payments.

(3) In cases involving prosecutions for violations of state law, money allocated under subsection (2) for payment of fines, costs, probation and parole supervision fees, and assessments or payments other than victim payments shall be applied in the following order of priority:

- (a) Payment of the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j.
- (b) Payment of other costs.
- (c) Payment of fines.
- (d) Payment of probation or parole supervision fees.

(e) Payment of assessments and other payments, including reimbursement to third parties who reimbursed a victim for his or her loss.

(4) In cases involving prosecutions for violations of local ordinances, money allocated under subsection (2) for payment of fines, costs, and assessments or payments other than victim payments shall be applied in the following order of priority:

(a) Payment of the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j.

(b) Payment of fines and other costs.

(c) Payment of assessments and other payments.

(5) As used in this section, "victim payment" means restitution ordered to be paid to the victim or the victim's estate, but not to a person who reimbursed the victim for his or her loss; or an assessment ordered under section 5 of 1989 PA 196, MCL 780.905.

History: Add. 2000, Act 503, Eff. June 1, 2001;—Am. 2003, Act 98, Eff. Oct. 1, 2003;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

780.766b Conviction of offense described in MCL 750.462a to 750.462h; restitution.

Sec. 16b. When sentencing a defendant convicted of an offense described in chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h, the court shall order restitution for the full amount of loss suffered by the victim. In addition to restitution ordered under section 16, the court may order the defendant to pay all of the following:

(a) Lost income, calculated by whichever of the following methods results in the largest amount:

(i) The gross amount received by the defendant from or the value to the defendant of the victim's labor or services.

(ii) The value of the victim's labor or services as calculated under the minimum wage law of 1964, 1964 PA 154, MCL 408.381 to 408.398, or the federal minimum wage, whichever results in the largest value.

(iii) Income loss as determined under section 16(4)(c).

(b) The cost of transportation, temporary housing, and child care expenses incurred by the victim because of the offense.

(c) Attorney fees and other costs and expenses incurred by the victim because of the offense, including, but not limited to, costs and expenses relating to assisting the investigation of the offense and for attendance at related court proceedings as follows:

(i) Wages lost.

(ii) Child care.

(iii) Transportation.

(iv) Parking.

(d) Any other loss suffered by the victim as a proximate result of the offense.

History: Add. 2010, Act 364, Eff. Apr. 1, 2011;—Am. 2014, Act 340, Eff. Jan. 14, 2015.

780.767 Amount of restitution; order; consideration; order to obtain information; disclosures; resolving dispute as to amount and type of restitution.

Sec. 17. (1) In determining the amount of restitution to order under section 16, the court shall consider the amount of the loss sustained by any victim as a result of the offense.

(2) The court may order the probation officer to obtain information pertaining to the amounts of loss described in subsection (1). The probation officer shall include the information collected in the presentence investigation report or in a separate report, as the court directs.

(3) The court shall disclose to both the defendant and the prosecuting attorney all portions of the presentence or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1996, Act 562, Eff. June 1, 1997.

780.767a Deductions and payments.

Sec. 17a. (1) If a defendant who has been sentenced to the department of corrections is ordered to pay restitution under section 16, and if the defendant receives more than \$50.00 in a month, the department of corrections shall deduct 50% of the amount over \$50.00 received by the defendant for payment of the restitution. The department of corrections shall promptly send the deducted money to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when

the defendant is paroled, transferred to community programs, or discharged on the maximum sentence.

(2) If a defendant who has been sentenced to jail is ordered to pay restitution under section 16, and if the defendant receives more than \$50.00 in a month, the sheriff may deduct 50% of the amount over \$50.00 received by the defendant for payment of the restitution, and 5% of the amount over \$50.00 received by the defendant to be retained by the sheriff as an administrative fee. The sheriff shall promptly send the money deducted for restitution to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when the defendant is released to probation or discharged on the maximum sentence.

(3) The department of corrections or sheriff, as applicable, shall notify the defendant and the court in writing of all deductions and payments made under this section. The requirements of this section remain in effect until all of the restitution has been paid. The department of corrections or sheriff shall not enter into any agreement with a defendant that modifies the requirements of this section. An agreement in violation of this subsection is void.

History: Add. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

780.768 Sale of recollections of thoughts and feelings of convicted person; proceeds to be held in escrow; disposition of proceeds.

Sec. 18. (1) A person convicted of a crime shall not derive any profit from the sale of any of the following until the victim receives any restitution or compensation ordered for him or her against the defendant, expenses of incarceration are paid under subsection (3), and any balance in the escrow account created under subsection (2) is paid under subsection (4):

- (a) The person's recollections of or thoughts or feelings about the offense committed by the person.
- (b) Memorabilia related to the offense committed by the person.
- (c) The person's property if its value has been enhanced or increased by the person's notoriety.

(2) Upon the conviction of a defendant for a crime involving a victim, and after notice to all interested parties, an attorney for the county in which the conviction occurred or the attorney general may petition the court in which the conviction occurred to order that the defendant forfeit all or any part of proceeds received or to be received by the defendant or the defendant's representatives or assignees from any of the following:

(a) Contracts relating to the depiction of the crime or the defendant's recollections, thoughts, or feelings about the crime, in books, magazines, media entertainment, or live entertainment.

(b) The sale of memorabilia relating to the crime.

(c) The sale of property of the defendant, the value of which has been enhanced or increased by the defendant's notoriety arising from the crime.

(3) Proceeds ordered forfeited under subsection (2) shall be held in an escrow account for a period of not more than 5 years.

(4) During the existence of an escrow account created under subsection (3), proceeds in the account shall be distributed in the following priority to satisfy the following:

(a) An order of restitution entered under section 16.

(b) Any civil judgment in favor of the victim against the defendant.

(c) Any reimbursement ordered under the prisoner reimbursement to the county act, 1984 PA 118, MCL 801.81 to 801.93, or the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406.

(d) Fines, costs, and other assessments ordered against the defendant.

(5) A balance remaining in an escrow account created under subsection (3) at the end of the escrow period shall be paid to the crime victim's rights fund created in section 4 of 1989 PA 196, MCL 780.904.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

780.768a Notice to victim; explanation of appeal process; rights of victim if conviction reversed.

Sec. 18a. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the defendant filed an appeal of his or her conviction or sentence or that the prosecuting attorney filed an appeal.

(b) Whether the defendant has been ordered released on bail or other recognizance pending the disposition of the appeal. If the prosecuting attorney is notified that the defendant has been ordered released on bail or other recognizance pending disposition of the appeal, the prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecuting attorney is notified of the order.

(c) The time and place of any appellate court oral arguments and any changes in the time or place of those

arguments.

(d) The result of the appeal. If the conviction is ordered reversed, the sentence is vacated, the case is remanded for a new trial, or the prosecuting attorney's appeal is denied, and if the prosecuting attorney has filed the appropriate notice with the appellate court, the appellate court shall expedite delivery of the relevant document to the prosecuting attorney's office by any means reasonably calculated to give the prosecuting attorney prompt notice. The prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecuting attorney is notified of the order.

(2) If the prosecuting attorney is not successful in notifying the victim of an event described in subsection (1) within the period set forth in that subsection, the prosecuting attorney shall notify the victim of that event as soon as possible by any means reasonably calculated to give the victim prompt actual notice.

(3) The prosecuting attorney shall provide the victim with a brief explanation in plain English of the appeal process, including the possible dispositions.

(4) If the case is returned to the trial court for further proceedings or a new trial, the victim has the same rights as previously requested during the proceedings that led to the appeal.

History: Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

780.768b Early termination of probation; notice to victim.

Sec. 18b. If a defendant is sentenced to probation with a condition for the protection of the victim and if requested by the victim, the court shall notify the victim by mail if the court orders that the probation be terminated earlier than previously ordered.

History: Add. 2006, Act 461, Eff. Jan. 1, 2007.

780.769 Request for notice by victim; exemption of victim's address and telephone number from disclosure.

Sec. 19. (1) Upon the written request of any individual who was a victim of the defendant's course of conduct that gave rise to the conviction, the sheriff or the department of corrections shall mail to that victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff or the department for that crime:

(a) Within 30 days after the request, notice of the sheriff's calculation of the prisoner's earliest release date or the department's calculation of the prisoner's earliest parole eligibility date, with all potential good time or disciplinary credits considered, if the sentence of imprisonment exceeds 90 days.

(b) Notice of the prisoner's transfer or pending transfer to a minimum security facility and the facility's address.

(c) Notice of the prisoner's release or pending release in a community residential program or under furlough; any other transfer to community status; any transfer from 1 community residential program or electronic monitoring program to another; or any transfer from a community residential program or electronic monitoring program to a state correctional facility.

(d) Notice that the person accused, convicted, or imprisoned for committing a crime against the victim has escaped from custody, as provided in section 20.

(e) Notice of both of the following:

(i) The victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole during the time the prisoner's release on parole or commutation of sentencing is being considered, as provided in section 21.

(ii) The victim's right to address the parole board and to present exhibits or other photographic or documentary information to the parole board including at a commutation hearing.

(f) Notice of the decision of the parole board, or any other panel having authority over the prisoner's release on parole, after a parole review, as provided in section 21.

(g) Notice of the release of a prisoner 90 days before the date of the prisoner's discharge from prison, unless the notice has been otherwise provided under this article.

(h) Notice that the prisoner has applied for a reprieve, commutation, or pardon and the parole board has decided to consider the application.

(i) Notice of a public hearing under section 44 of the corrections code of 1953, 1953 PA 232, MCL 791.244, regarding a reprieve, commutation, or pardon of the prisoner's sentence by the governor.

(j) Notice that a reprieve, commutation, or pardon has been granted or denied upon conclusion of a public hearing.

(k) Notice that a prisoner has had his or her name legally changed while on parole or within 2 years after release from parole.

(l) Notice that a prisoner has been convicted of a new crime.

(m) Notice that a prisoner has been returned from parole status to a correctional facility due to an alleged violation of the conditions of his or her parole.

(n) Notice that the prisoner, including a parolee, has died. However, the notification requirements of this subdivision apply to the death of a parolee only if the department is aware that the parolee has died.

(2) A victim's address and telephone number maintained by a sheriff or the department of corrections upon a request for notice under this section are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be released.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1996, Act 105, Eff. Apr. 1, 1996;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2012, Act 564, Eff. Mar. 28, 2013.

Compiler's note: For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

780.769a Defendant found not guilty by reason of insanity; notice to victim from director of hospital or facility.

Sec. 19a. (1) On a victim's written request, the director of a hospital or facility where a defendant found not guilty by reason of insanity has been hospitalized or admitted by court order shall notify the victim of the following:

(a) A pending transfer of the defendant to a less secure hospital or facility.

(b) A pending transfer of the defendant to alternative care or treatment, community placement, or aftercare reintegration.

(c) A pending leave, absence, furlough, or other release from confinement for the defendant, whether temporary or permanent.

(2) A notice required by subsection (1) shall be given by any means reasonably calculated to give the victim prompt actual notice.

(3) A victim's address and telephone number maintained by a hospital or facility under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 2005, Act 184, Eff. Jan. 1, 2006.

780.770 Notice of escape.

Sec. 20. (1) The person designated in subsections (2) to (4) shall give a victim who requests notice and the prosecuting attorney who is prosecuting or has prosecuted the crime for which a defendant is detained, under sentence, hospitalized, or admitted to a facility immediate notice of the escape of the defendant accused, convicted, imprisoned, hospitalized, or admitted to a facility for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(2) If notice is required under this section and the defendant escapes from custody before sentence is executed or before the defendant is delivered to the department of corrections, hospitalized, or admitted to a facility, the chief law enforcement officer of the agency in charge of the person's detention shall give notice to the prosecuting attorney that the defendant has escaped, who shall then give notice to the victim who requested that notice. The notice shall be provided to the victim within 24 hours after the defendant is reported to have escaped.

(3) If the defendant is confined under a sentence, the notice required under this section shall be given by the chief administrator of the place in which the prisoner is confined.

(4) If the defendant is hospitalized under an order of hospitalization or admitted to a facility under an order of admission, the notice required under this section shall be given by the director of the hospital in which the defendant is hospitalized or by the director of the facility to which the defendant is admitted.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2012, Act 564, Eff. Mar. 28, 2013.

780.770a Notice to victim by family independence agency or county juvenile agency; escape by juvenile.

Sec. 20a. (1) Upon a victim's written request, the family independence agency or county juvenile agency, as applicable, shall make a good faith effort to notify the victim before either of the following occurs:

(a) A juvenile is dismissed from court jurisdiction or discharged from commitment to the family independence agency or county juvenile agency.

(b) A juvenile is transferred from a secure juvenile facility to a nonsecure juvenile facility.

(2) If the family independence agency or county juvenile agency is not successful in notifying the victim before an event described in subsection (1) occurs, it shall notify the victim as soon as possible after that

event occurs by any means reasonably calculated to give prompt actual notice.

(3) Upon the victim's written request, the family independence agency or county juvenile agency, as applicable, shall give to the victim notice of a juvenile's escape. A victim who requests notice of an escape shall be given immediate notice of the escape by any means reasonably calculated to give prompt actual notice. If the escape occurs before the juvenile is delivered to the family independence agency or county juvenile agency, the agency in charge of the juvenile's detention shall give notice of the escape to the family independence agency or county juvenile agency, which shall then give notice of the escape to the victim who requested notice.

History: Add. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999.

780.770b Notice of review hearing.

Sec. 20b. Upon the victim's request, the prosecuting attorney shall give the victim notice of a review hearing conducted pursuant to section 1b of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 769.1b of the Michigan Compiled Laws. The victim has the right to make a statement at the hearing, submit a written statement for use at the hearing, or both.

History: Add. 1993, Act 341, Eff. May 1, 1994.

780.771 Rights of victim; notice of pending review and victim's rights; representation of counsel; notice of board or panel decision; exemption from disclosure.

Sec. 21. (1) A victim has the right to do both of the following:

(a) To address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole during the time the prisoner's release on parole or commutation of sentencing is being considered.

(b) To address the parole board and to present exhibits or other photographic or documentary information to the parole board including at a commutation hearing.

(2) Not less than 30 days before a review of the prisoner's release, a victim who has requested notice under section 19(1)(f) shall be given written notice by the department of corrections informing the victim of the pending review and of victims' rights under this section. The victim, at his or her own expense, may be represented by counsel at the review.

(3) A victim shall receive notice of the decision of the board or panel and, if applicable, notice of the date of the prisoner's release on parole. Notice shall be mailed within a reasonable time after the board or panel reaches its decision but not later than 14 days after the board or panel has reached its decision. The notice shall include a statement of the victim's right to appeal a parole decision, as allowed under section 34 of the corrections code of 1953, 1953 PA 232, MCL 791.234.

(4) A record of an oral statement or a written statement made under subsection (1) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be released.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2012, Act 564, Eff. Mar. 28, 2013.

Compiler's note: For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

780.772 Notice of final disposition of case.

Sec. 22. Upon the request of a victim, the prosecuting attorney shall, within 30 days of the final disposition of the case, notify the victim in writing of the final disposition of the case.

History: 1985, Act 87, Eff. Oct. 9, 1985.

780.772a Notice to victim of defendant's application to have conviction for assaultive crime set aside; "assaultive crime" defined.

Sec. 22a. If a defendant applies to have a conviction for an assaultive crime set aside under Act No. 213 of the Public Acts of 1965, being sections 780.621 to 780.624 of the Michigan Compiled Laws, and if the name of the victim is known by the prosecuting attorney, the prosecuting attorney shall give to the victim of the assaultive crime written notice of the application and forward a copy of the application to the victim. The notice shall be by first-class mail to the victim's last known address. The victim has the right to appear at any proceeding under Act No. 213 of the Public Acts of 1965 concerning that conviction and make a written or oral statement. As used in this section, "assaultive crime" means that term as defined in section 9a of chapter X of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 770.9a of the Michigan Compiled Laws.

History: Add. 1993, Act 341, Eff. May 1, 1994.

780.773 Cause of action not created.

Sec. 23. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, or instrumentalities, or employees.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988.

780.774 Failure to provide right, privilege, or notice to victim.

Sec. 24. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988.

780.775 Effective date of article; applicability.

Sec. 25. (1) This article shall take effect October 9, 1985.

(2) This article shall apply only to crimes committed on or after October 9, 1985.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988.