

Act No. 341  
Public Acts of 1993  
Approved by the Governor  
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**STATE OF MICHIGAN**  
**87TH LEGISLATURE**  
**REGULAR SESSION OF 1993**

Introduced by Senator Van Regenmorter

# **ENROLLED SENATE BILL No. 137**

AN ACT to amend sections 2, 3, 5, 6, 9, 12, 16, 18a, 31, 32, 35, 36, 40, 41, 43, 44, 45, 46, 48, 61, 63, 66, 72, 76, and 78 of Act No. 87 of the Public Acts of 1985, entitled as amended "An act to establish the rights of victims of crime and juvenile offenses; to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers' agents toward victims; and to provide for penalties and remedies," sections 2, 5, 6, and 16 as amended and sections 18a, 61, 63, 66, 72, 76, and 78 as added by Act No. 21 of the Public Acts of 1988 and sections 31, 32, 35, 36, 40, 41, 43, 44, 45, 46, and 48 as added by Act No. 22 of the Public Acts of 1988, being sections 780.752, 780.753, 780.755, 780.756, 780.759, 780.762, 780.766, 780.768a, 780.781, 780.782, 780.785, 780.786, 780.790, 780.791, 780.793, 780.794, 780.795, 780.796, 780.798, 780.811, 780.813, 780.816, 780.822, 780.826, and 780.828 of the Michigan Compiled Laws; and to add sections 13a, 20a, 20b, 22a, 33a, 36a, 41a, 46a, 48a, 61a, 63a, 77a, 78a, and 78b.

*The People of the State of Michigan enact:*

Section 1. Sections 2, 3, 5, 6, 9, 12, 16, 18a, 31, 32, 35, 36, 40, 41, 43, 44, 45, 46, 48, 61, 63, 66, 72, 76, and 78 of Act No. 87 of the Public Acts of 1985, sections 2, 5, 6, and 16 as amended and sections 18a, 61, 63, 66, 72, 76, and 78 as added by Act No. 21 of the Public Acts of 1988 and sections 31, 32, 35, 36, 40, 41, 43, 44, 45, 46, and 48 as added by Act No. 22 of the Public Acts of 1988, being sections 780.752, 780.753, 780.755, 780.756, 780.759, 780.762, 780.766, 780.768a, 780.781, 780.782, 780.785, 780.786, 780.790, 780.791, 780.793, 780.794, 780.795, 780.796, 780.798, 780.811, 780.813, 780.816, 780.822, 780.826, and 780.828 of the Michigan Compiled Laws, are amended and sections 13a, 20a, 20b, 22a, 33a, 36a, 41a, 46a, 48a, 61a, 63a, 77a, 78a, and 78b are added to read as follows:

Sec. 2. (1) As used in this article:

(a) "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 to be a felony.

(b) "Defendant" means a person charged with or convicted of having committed a crime against a victim.

(c) "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.

(d) "Juvenile" means a person within the jurisdiction of the circuit court under section 606 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.606 of the Michigan Compiled Laws, or within the jurisdiction of the recorder's court of the city of Detroit under section 10a(1)(c) of Act No. 369 of the Public Acts of 1919, being section 725.10a of the Michigan Compiled Laws.

(e) "Juvenile facility" means a county facility, institution operated as an agency of the county or the juvenile division of the probate court, or a state institution or agency described in the youth rehabilitation services act, Act No. 150 of

the Public Acts of 1974, being sections 803.301 to 803.309 of the Michigan Compiled Laws, to which a juvenile has been committed or in which a juvenile is detained.

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

(g) "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.

(h) "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.

(i) "Victim", except as otherwise defined in this article, 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), or (iv).

(ii) The following individuals other than the defendant if the victim is deceased:

(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 a deceased victim if sub-subparagraphs (A) and (B) do not apply.

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

(2) If a victim as defined in subsection (1)(i)(i) is physically or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 18 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical or emotional disability. The victim shall provide the prosecuting attorney with the name of the person who is to act in place of the victim. During the physical or emotional disability, notices to be provided under this article to the victim shall continue to be sent only to the 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 statement:

"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."

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.

(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.

Sec. 6. (1) Not later than 7 days after the arraignment of the defendant 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) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.

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

(e) The person to contact for further information.

(2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of 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 views of the victim 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 other notice or notices under this article shall keep the following persons informed of the victim's current address 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 directed by the prosecuting attorney if the defendant is imprisoned.

(c) The department of social services if the defendant is held in a juvenile facility.

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.

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.

Sec. 13a. When a defendant is sentenced to a term of imprisonment or ordered to be placed in a juvenile facility, the prosecuting attorney shall provide the victim with a form the victim may submit to receive the notices provided for under section 19 or 20a. The form shall include the address of the department of corrections, the sheriff, or the department of social services, as applicable, to which the form may be sent.

Sec. 16. (1) For purposes of 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. For purposes of subsections (2), (3), (4), (7), (9), (10), (11), and (16), 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 this section and section 17, the court, when sentencing a defendant convicted of a crime, 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 or partial restitution to any victim of the defendant's course of conduct that gives rise to the conviction, or to the victim's estate.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

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

(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 value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of sentencing.

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

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

(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.

(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.

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

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family that has been incurred as a result of the offense.

(e) Pay an amount equal to the costs of actual homemaking and child care expenses incurred as a result of the offense.

(6) If a crime resulting in bodily injury also results in the death of a victim, the order of restitution may require that the defendant pay an amount equal to the cost of actual funeral and related services.

(7) Instead of restitution under subsections (4) to (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, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the crime.

(8) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(9) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the sentencing process.

(10) Except as otherwise provided in this section and section 17, the court shall order restitution to the crime victims compensation board or to any individuals, partnerships, corporations, associations, governmental entities, or any other legal entities that have compensated the victim or victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. 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 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.

(11) 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 victims compensation board made after an order of restitution under this section.

(12) 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. The end of the period or the last installment shall not be later than the following:

(a) The end of the period of probation, if probation is ordered.

(b) Two years after the end of imprisonment or discharge from parole, whichever occurs later, if the court does not order probation but imposes a term of imprisonment.

(c) Three years after the date of sentencing in any other case.

(13) In determining the amount of restitution, the court shall consider the defendant's earning ability, financial resources, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(14) If the defendant is placed on probation or paroled, any restitution ordered under this section shall be a condition of that probation or parole. The court may revoke probation 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, the court or parole board shall consider the defendant's employment status, earning ability, 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.

(15) 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 for a cancellation of any unpaid portion of restitution. If it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the defendant or his or her immediate family, the court may cancel all or part of the amount due in restitution or modify the method of payment.

(16) An order of restitution to a victim or victim's estate may be enforced by the prosecuting attorney or a victim or victim's estate named in the order to receive the restitution in the same manner as a judgment in a civil action.

(17) 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.

(18) In each case in which payment of restitution is ordered as a condition of probation, 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. The final review shall be conducted not less than 60 days before the expiration of the probationary period. If the probation officer determines 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. The report shall include a statement of the amount of the arrearage, and any reasons for the arrearage that are known by the probation officer. The probation officer shall immediately provide a copy of the report to the prosecuting attorney. If a 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.

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

(a) That the defendant has filed an appeal of his or her conviction.

(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 proceedings and any changes in the time or place of those proceedings.

(d) The result of the appeal. If the prosecuting attorney is notified that the conviction is ordered reversed or the case is remanded for further proceedings, 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 for notification, 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) Upon the request of the victim, 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 defendant's conviction is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.

Sec. 20a. (1) Upon written request of a victim of a crime, the department of social services 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 the department of social services jurisdiction.

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

(2) If the department of social services is not successful in notifying the victim before an event described in subsection (1)(a) or (b) occurs, the department of social services shall notify the victim as soon as possible after the occurrence of the event described in subsection (1)(a) or (b) by any means reasonably calculated to give prompt actual notice.

(3) Upon the victim's written request, the department of social services 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

department of social services, the agency in charge of the juvenile's detention shall give notice of the escape to the department of social services, which shall then give notice of the escape to the victim who requested notice.

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.

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.

Sec. 31. (1) As used in this article:

(a) "Court" means the juvenile division of the probate court.

(b) "Juvenile" means a child alleged or found to be within the jurisdiction of the juvenile division of the probate court pursuant to section 2(a)(1) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, for an offense.

(c) "Juvenile facility" means a county facility, an institution operated as an agency of the county or the juvenile division of the probate court, or a state institution or agency described in the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being sections 803.301 to 803.309 of the Michigan Compiled Laws, to which a juvenile has been committed or in which a juvenile is detained.

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

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

(ii) A violation of section 81, 81a, 115, 136b(5), 145a, 234, 235, 335a, or 411h of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81, 750.81a, 750.115, 750.136b, 750.145a, 750.234, 750.235, 750.335a, and 750.411h of the Michigan Compiled Laws.

(iii) A violation of section 617a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.617a of the Michigan Compiled Laws, or a violation of section 625 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.625 of the Michigan Compiled Laws, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to another individual.

(iv) Selling or furnishing alcoholic liquor to an individual less than 21 years of age in violation of section 33 of the Michigan liquor control act, Act No. 8 of the Extra Session of the Public Acts of 1933, being section 436.33 of the Michigan Compiled Laws, if the violation results in physical injury or death to any individual.

(v) A violation of section 171 of the marine safety act, Act No. 303 of the Public Acts of 1967, being section 281.1171 of the Michigan Compiled Laws, operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to any individual.

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

(vii) A violation described in subparagraphs (i) to (vi) that is subsequently reduced to a violation not included in subparagraphs (i) to (vi).

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

(f) "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, a special prosecuting attorney, or in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(g) "Victim", except as otherwise defined in this article, means any of the following:

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

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

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

(2) If a victim as defined in subsection (1)(g)(i) is physically or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 18 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical or emotional disability. The victim shall provide the prosecuting attorney with the name of the person who is to act in place of the victim. During the physical or emotional disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

Sec. 32. Within 24 hours after the initial contact between the victim of a reported offense and the law enforcement agency having the responsibility for investigating that offense, 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 statement:

"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."

Sec. 33a. The investigating agency or prosecuting attorney that files a complaint or submits a petition seeking to invoke the court's jurisdiction for a juvenile offense described in section 31(1)(d)(iii), (iv), or (v), or a local ordinance substantially corresponding to a juvenile offense described in section 31(1)(d)(iii), (iv), or (v), shall place a statement on the complaint or petition that the offense resulted in damage to another individual's property or physical injury or death to another individual.

Sec. 35. (1) If the juvenile has been placed in a juvenile facility, not later than 48 hours after the preliminary hearing of that juvenile for a juvenile offense, the prosecuting attorney or, pursuant to an agreement under section 48a, the court shall give to the victim the telephone number of the juvenile facility and notice that the victim may contact the juvenile facility to determine whether the juvenile has been released from custody.

(2) Based upon any credible evidence of acts or threats of physical violence or intimidation by the juvenile or at the juvenile's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the juvenile be detained in a juvenile facility.

Sec. 36. (1) Within 72 hours after the prosecuting attorney files or submits a petition seeking to invoke the court's jurisdiction for a juvenile offense, the prosecuting attorney or, pursuant to an agreement under section 48a, the court 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 juvenile offense case, including the fact that a juvenile may be waived to the court of general criminal jurisdiction.
- (b) A specific list of the rights and procedures under this article.
- (c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.
- (d) Suggested procedures if the victim is subjected to threats or intimidation.
- (e) The person to contact for further information.

(2) If requested by the victim, the prosecuting attorney or, pursuant to an agreement under section 48a, the court shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) If the juvenile has not already entered a plea of admission or no contest to the original charge at the preliminary hearing, 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 offense, including the victim's views about dismissal, waiver, and pretrial diversion programs, before finalizing any agreement to reduce the original charge.

(4) Before placing a juvenile in a pretrial diversion program for committing a violation that if committed by an adult would be a crime or a serious misdemeanor, the court shall provide the victim with an opportunity to be heard regarding that placement. The victim has the right to make a statement at the hearing, submit a written statement, or both. As used in this subsection:

(a) "Crime" means that term as defined in section 2.

(b) "Serious misdemeanor" means that term as defined in section 61.

(5) The victim who receives a notice under subsection (1) and who chooses to receive any other notice or notices under this article shall keep the following persons informed of the victim's current address and telephone number:

(a) The prosecuting attorney, or the court if the prosecuting attorney and the court have entered into an agreement under section 48a.

(b) If the juvenile is made a ward of the state, the department of social services.

Sec. 36a. (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 court, 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 after the motion is filed. 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.

Sec. 40. (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 offense that if committed by an adult would be an assaultive crime if the victim of the offense is less than 18 years of age.

(c) A person who has been designated under section 31(2) to act in place of a victim of an offense that if committed by an adult would be an assaultive crime during the duration of the victim's physical or emotional disability.

Sec. 41. (1) The prosecuting attorney or, pursuant to an agreement under section 48a, the court, upon and in accordance with the request of the victim, shall give to the victim notice of both of the following:

(a) The offenses for which the juvenile was adjudicated.

(b) The victim's right to make a written or oral impact statement at a disposition hearing.

(c) The time and place of the disposition proceeding.

(2) If there is to be a report prepared for the purpose of disposition concerning the juvenile, the person preparing the report shall give notice to the victim of all of the following:

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

(b) The address and telephone number of the person who is to prepare the report.

(c) That the report and any statement of the victim included in the report will be made available to the juvenile unless exempted from disclosure by the court.



(3) A notice given under subsections (1) and (2) 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 disposition.

Sec. 41a. When a juvenile is ordered to be placed in a juvenile facility, the prosecuting attorney or, pursuant to an agreement under section 48a, the court, shall provide the victim with a form the victim may submit to receive the notices from the department of social services provided for under section 48. The form shall include the address of the department of social services to which the form may be sent.

Sec. 43. (1) The victim shall have the right to appear and make an oral impact statement at the disposition of the juvenile.

(2) Upon request, the victim shall be notified by the prosecuting attorney or, pursuant to an agreement under section 48a, the court of the disposition of the juvenile's offense not more than 14 days after the disposition is made.

Sec. 44. (1) For purposes of this section only:

(a) "Offense" means a violation of a penal law of this state or a violation of an ordinance of a local unit of government of this state punishable by imprisonment or by a fine that is not a civil fine.

(b) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of an offense. For purposes of subsections (2), (3), (4), (7), (9), (10), (11), and (15), victim includes a sole proprietorship, partnership, corporation, association, governmental entity, or other legal entity that suffers direct physical or financial harm as a result of the commission of an offense.

(2) Except as provided in this section and section 45, the court, at the dispositional hearing for a juvenile offense, shall order, in addition to or in lieu of any other disposition authorized by law, that the juvenile make full or partial restitution to any victim of the juvenile's course of conduct that gives rise to the disposition, or to the victim's estate.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a juvenile offense results in damage to or loss or destruction of property of a victim of the offense, or results in the seizure or impoundment of property of a victim of the offense, the order of restitution may require that the juvenile do 1 or more of the following:

(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 value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of disposition.

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

(5) If a juvenile offense results in physical or psychological injury to a victim, the order of restitution may require that the juvenile do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.

(b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.

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

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family that has been incurred as a result of the offense.

(e) Pay an amount equal the costs of actual homemaking and child care expenses incurred as a result of the offense.

(6) If a juvenile offense resulting in bodily injury also results in the death of a victim, the order of restitution may require that the juvenile pay an amount equal to the cost of actual funeral and related services.

(7) Instead of restitution under subsections (4) to (6), if the victim or victim's estate consents, the order of restitution may require that the juvenile make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the offense.

(8) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(9) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the disposition process.

(10) Except as otherwise provided in this section and section 45, the court shall order restitution to the crime victims compensation board or to any individuals, partnerships, corporations, associations, governmental entities, or any other legal entities that have compensated the victim or victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. 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 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.

(11) 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 victims compensation board made after an order of restitution under this section.

(12) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the juvenile make restitution under this section within a specified period or in specified installments. The end of the period or the last installment shall not be later than the following:

(a) The end of the period of probation, if probation is ordered.

(b) If the juvenile is made a state ward, when the department of social services' jurisdiction over the juvenile expires.

(c) If the juvenile is made a ward of the court, when the court's jurisdiction over the juvenile expires.

(d) Three years after the date of disposition or when the court's jurisdiction over the juvenile expires, whichever is later.

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

(14) A juvenile 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 court for a cancellation of any unpaid portion of restitution. If it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the juvenile or his or her immediate family, the court may cancel all or part of the amount due in restitution or modify the method of payment.

(15) An order of restitution may be enforced by the prosecuting attorney or a victim or victim's estate named in the order to receive the restitution in the same manner as a judgment in a civil action.

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

(17) If the court determines that the juvenile is or will be unable to pay all of the restitution ordered, after notice to the juvenile's parent and an opportunity for the parent 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 not more than \$5,000.00 of the restitution ordered. As used in this subsection, "parent" does not include a foster parent.

(18) If the court orders a parent to pay restitution under subsection (17), the court shall take into account the financial resources of the parent and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay restitution under subsection (17), the court shall provide for payment to be made in specified installments and within a specified period of time.

(19) A parent who has been ordered to pay restitution under subsection (17) may petition the court for a modification of the amount of restitution owed or for a cancellation of any unpaid portion of the restitution. The court shall cancel all or part of the amount of restitution due, if it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the parent.

(20) In each case in which payment of restitution is ordered as a condition of probation, the juvenile caseworker or probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. The final review shall be conducted not less than 60 days before the expiration of the probationary

period. If the juvenile caseworker or probation officer determines the restitution is not being paid as ordered, the juvenile caseworker or probation officer shall file a written report of the violation with the court on a form prescribed by the state court administrative office. The report shall include a statement of the amount of the arrearage, and any reasons for the arrearage that are known by the juvenile caseworker or probation officer. The juvenile caseworker or probation officer shall immediately provide a copy of the report to the prosecuting attorney. If a 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.

(21) A court shall not order a juvenile to pay restitution under this section in an amount that exceeds 30% of the juvenile's net income per pay period from the juvenile's paid employment.

Sec. 45. (1) The court, in determining whether to order restitution under section 44 and the amount of that restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources and earning ability of the juvenile and his or her supervisory parent, the financial needs of the juvenile and the juvenile's dependents, and such other factors as the court considers appropriate.

(2) The court may order the person preparing a report for the purpose of disposition to obtain information pertaining to the factors set forth in subsection (1). That person shall include the information collected in the disposition report or in a separate report, as the court directs.

(3) The court shall disclose to the juvenile, the juvenile's supervisory parent, and the prosecuting attorney all portions of the disposition 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 earning ability of the juvenile and the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the juvenile and his or her supervisory parent shall be on the juvenile and his or her supervisory parent, and the burden of demonstrating the financial needs of the juvenile and the juvenile's dependents shall be on the juvenile. The burden of demonstrating such other matters as the court considers appropriate shall be upon the party designated by the court as justice requires.

Sec. 46. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the juvenile has filed an appeal of his or her adjudication.

(b) Whether the juvenile has been ordered released on bail or other recognizance pending the disposition of the appeal. If the prosecuting attorney is notified that the juvenile 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 proceedings and any changes in the time or place of those proceedings.

(d) The result of the appeal. If the prosecuting attorney is notified that the disposition is ordered reversed or the case is remanded for further proceedings, 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 for notification, 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) Upon the request of the victim, the prosecuting attorney shall provide the victim with a brief explanation in plain English of the appeal process, including the possible dispositions.

(4) In the event the juvenile's adjudication or order of disposition is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.

Sec. 46a. If a juvenile applies to have an adjudication for an offense that if committed by an adult would be an assaultive crime or a serious misdemeanor set aside under section 18e of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.18e 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 offense 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 section 18e of chapter XIIA of Act No. 288 of the Public Acts of 1939 concerning that adjudication and make a written or oral statement. As used in this section:

(a) "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.

(b) "Serious misdemeanor" means that term as defined in section 61.

Sec. 48. (1) Upon written request, the court or the department of social services shall make a good faith effort to notify the victim before either of the following occurs:

(a) The juvenile is dismissed from court jurisdiction or discharged from the department of social services jurisdiction.

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

(2) If the court or department of social services is not successful in notifying the victim before an event described in subsection (1)(a) or (b) occurs, the court or department of social services shall notify the victim as soon as possible after the occurrence of the event described in subsection (1)(a) or (b).

(3) Upon the victim's written request, the department of social services or the court shall give to the victim notice of a juvenile's escape from a secure detention or treatment facility. 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.

(4) Upon the victim's request, the prosecuting attorney shall give the victim notice of a review hearing conducted pursuant to section 18 of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.18 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.

Sec. 48a. The court may perform the notification functions delegated to the prosecuting attorney under this article if both of the following circumstances exist:

(a) The prosecuting attorney allows the court to perform those functions pursuant to a written agreement.

(b) The court performed those functions before the effective date of the amendatory act that added this section.

Sec. 61. (1) As used in this article:

(a) "Serious misdemeanor" means 1 or more of the following:

(i) A violation of section 81 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.81 of the Michigan Compiled Laws, assault and battery.

(ii) A violation of section 81a of Act No. 328 of the Public Acts of 1931, being section 750.81a of the Michigan Compiled Laws, assault; infliction of serious injury.

(iii) A violation of section 115 of Act No. 328 of the Public Acts of 1931, being section 750.115 of the Michigan Compiled Laws, breaking and entering or illegal entry.

(iv) A violation of section 136b(5) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.135b of the Michigan Compiled Laws, child abuse in the fourth degree.

(v) A violation of section 145a of Act No. 328 of the Public Acts of 1931, being section 750.145a of the Michigan Compiled Laws, enticing a child for immoral purposes.

(vi) A violation of section 234 of Act No. 328 of the Public Acts of 1931, being section 750.234 of the Michigan Compiled Laws, discharge of a firearm intentionally aimed at a person.

(vii) A violation of section 235 of Act No. 328 of the Public Acts of 1931, being section 750.235 of the Michigan Compiled Laws, discharge of an intentionally aimed firearm resulting in injury.

(viii) A violation of section 335a of Act No. 328 of the Public Acts of 1931, being section 750.335a of the Michigan Compiled Laws, indecent exposure.

(ix) A violation of section 617a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.617a of the Michigan Compiled Laws, leaving the scene of a personal injury accident.

(x) A violation of section 625 of Act No. 300 of the Public Acts of 1949, being section 257.625 of the Michigan Compiled Laws, operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to another individual.

(xi) Selling or furnishing alcoholic liquor to an individual less than 21 years of age in violation of section 33 of the Michigan liquor control act, Act No. 8 of the Extra Session of the Public Acts of 1933, being section 436.33 of the Michigan Compiled Laws, if the violation results in physical injury or death to any individual.

(xii) A violation of section 411h of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.411h of the Michigan Compiled Laws, stalking.

(xiii) A violation of section 171 of the marine safety act, Act No. 303 of the Public Acts of 1967, being section 281.1171 of the Michigan Compiled Laws, operating a vessel while under the influence of or impaired by intoxicating liquor or a controlled substance, or with an unlawful blood alcohol content, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to any individual.

(xiv) A violation of a local ordinance substantially corresponding to a violation enumerated in subparagraphs (i) to (xiii).

(xv) A violation charged as a crime or serious misdemeanor but subsequently reduced to or pleaded to as a misdemeanor. As used in this subparagraph, "crime" means that term as defined in section 2.

(b) "Defendant" means a person charged with or convicted of having committed a serious misdemeanor against a victim.

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

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

(e) "Prisoner" means a person who has been convicted and sentenced to imprisonment for having committed a serious misdemeanor against a victim.

(f) "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, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(g) "Victim", except as otherwise defined in this article, 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 serious misdemeanor, except as provided in subparagraph (ii), (iii), or (iv).

(ii) The following individuals other than the defendant if the victim is deceased:

(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 a deceased victim if sub-subparagraphs (A) and (B) do not apply.

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

(iv) A parent, guardian, or custodian of a victim who is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process.

(2) If a victim as defined in subsection (1)(g)(i) is physically or emotionally unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 18 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical or emotional disability. The victim shall provide the prosecuting attorney with the name of the person who is to act in place of the victim. During the physical or emotional disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

(3) An individual who is charged with a serious misdemeanor or a crime as defined in section 2 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.

Sec. 61a. A law enforcement officer or prosecuting attorney who files with the court a complaint, appearance ticket, traffic citation, or other charging instrument regarding a serious misdemeanor described in section 61(1)(a)(x), (xi), or (xiii), or a local ordinance substantially corresponding to a serious misdemeanor described in section 61(1)(a)(x), (xi), or (xiii), shall place a statement on the complaint, appearance ticket, traffic citation, or other charging instrument that the offense resulted in damage to another individual's property or physical injury or death to another individual.

Sec. 63. Within 24 hours after the initial contact between the victim of a reported serious misdemeanor and the law enforcement agency having the responsibility for investigating that serious misdemeanor, 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 statement:

"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."

Sec. 63a. 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.

Sec. 66. (1) If a plea of guilty or nolo contendere is accepted by the court at the time of the arraignment of the defendant for a serious misdemeanor, the court shall notify the prosecuting attorney of the plea and the date of sentencing within 48 hours after the arraignment. If no guilty or nolo contendere plea is accepted at the arraignment and further proceedings will be scheduled, the court shall so notify the prosecuting attorney within 48 hours after the arraignment. A notice to the prosecuting attorney under this subsection shall be on a separate form and shall include the name, address, and telephone number of the victim. The notice shall not be a matter of public record. Within 48 hours after receiving this notice, 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 misdemeanor case, including pretrial conferences.
  - (b) A specific list of the rights and procedures under this article.
  - (c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.
  - (d) Suggested procedures if the victim is subjected to threats or intimidation.
  - (e) The person to contact for further information.
- (2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.
- (3) If the defendant has not already entered a plea of guilty or nolo contendere at the arraignment, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of the serious misdemeanor, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs before finalizing any negotiation that may result in a dismissal, plea or sentence bargain, or pretrial diversion.
- (4) If the case against the defendant is dismissed at any time, the prosecuting attorney shall notify the victim of the dismissal within 48 hours.
- (5) A victim who receives a notice under subsection (1) or (2) and who chooses to receive any other notice or notices under this article shall keep the following persons informed of the victim's current address and telephone number:
- (a) The prosecuting attorney, until final disposition or completion of the appellate process, whichever occurs later.
  - (b) The sheriff, if the defendant is imprisoned for more than 92 days.

Sec. 72. (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 serious misdemeanor if the victim of the assaultive serious misdemeanor is less than 18 years of age.
  - (c) A person who has been designated under section 61(2) to act in place of a victim of an assaultive serious misdemeanor during the duration of the victim's physical or emotional disability.

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

- (a) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a misdemeanor. For purposes of subsections (2), (3), (4), (7), (9), (10), (11), and (15), 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 misdemeanor.

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

(2) Except as provided in this section, the court, when sentencing a defendant convicted of a misdemeanor, 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 or partial restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a misdemeanor results in damage to or loss or destruction of property of a victim of the offense, or results in the seizure or impoundment of property of a victim of the offense, the order of restitution may require that the defendant do 1 or more of the following:

(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 value of the property on the date of the damage, loss, or destruction.

(ii) The value of the property on the date of sentencing.

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

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

(a) Pay an amount equal to the cost of the victim's actual medical and related professional services and devices relating to physical or psychological care.

(b) Pay an amount equal to the cost of the victim's actual physical and occupational therapy and rehabilitation.

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

(d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family that has been incurred as a result of the offense.

(e) Pay an amount equal to the costs of actual homemaking and child care expenses incurred as a result of the offense.

(6) If a misdemeanor resulting in bodily injury also results in the death of a victim, the order of restitution may require that the defendant pay an amount equal to the cost of actual funeral and related services.

(7) Instead of restitution under subsections (4) to (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, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the misdemeanor.

(8) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(9) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the sentencing process.

(10) Except as otherwise provided in this section, the court shall order restitution to the crime victims compensation board or to any individuals, partnerships, corporations, associations, governmental entities, or any other legal entities that have compensated the victim or victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. 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 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.

(11) 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 victims compensation board made after an order of restitution under this section.

(12) 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. The end of the period or the last installment shall not be later than the following:

(a) The end of the period of probation, if probation is ordered.

(b) Two years after the end of imprisonment, if the court does not order probation but imposes a term of imprisonment.

(c) Three years after the date of sentencing in any other case.

(13) If the defendant is placed on probation, any restitution ordered under this section shall be a condition of that probation. The court may revoke probation 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, the court shall consider the defendant's employment status, earning ability, 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.

(14) 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 for a cancellation of any unpaid portion of restitution. If it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the defendant or his or her immediate family, the court may cancel all or part of the amount due in restitution or modify the method of payment.

(15) An order of restitution may be enforced by the prosecuting attorney or a victim or victim's estate named in the order to receive restitution in the same manner as a judgment in a civil action.

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

(17) In each case in which payment of restitution is ordered as a condition of probation, 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. The final review shall be conducted not less than 60 days before the expiration of the probationary period. If the probation officer determines 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. The report shall include a statement of the amount of the arrearage, and any reasons for the arrearage that are known by the probation officer. The probation officer shall immediately provide a copy of the report to the prosecuting attorney. If a 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.

(18) In determining the amount of restitution, the court shall consider the defendant's earning ability, financial resources, and any other special circumstances that may have a bearing on the defendant's ability to pay.

*Sec. 77a. If a defendant applies to have a conviction for a serious misdemeanor 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 serious misdemeanor 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.*

Sec. 78. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the defendant has filed an appeal of his or her conviction.

(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 proceedings and any changes in the time or place of those proceedings.

(d) The result of the appeal. If the prosecuting attorney is notified that the conviction is ordered reversed or the case is remanded for further proceedings, 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 for notification, 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) Upon the request of the victim, 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 defendant's conviction is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.

Sec. 78a. (1) Upon the written request of a victim of a serious misdemeanor, the sheriff shall mail to the victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff for commission of that serious misdemeanor:



(a) Within 30 days after the request, notice of the sheriff's calculation of the earliest release date of the prisoner, with all potential good time or disciplinary credits considered if the sentence of imprisonment exceeds 90 days. The victim may request 1-time only notice of the calculation described in this subdivision.

(b) Notice of the escape of the person accused, convicted, or imprisoned for committing a serious misdemeanor against the victim, as provided in section 78b.

(2) When a defendant is sentenced to a term of imprisonment, the prosecuting attorney shall provide the victim with a form the victim may submit to receive the notices provided for under this section or section 78b. The form shall include the address of the sheriff's department to which the form may be sent.

Sec. 78b. (1) As provided in subsection (2) or (3), a victim who requests notice of the escape and the prosecuting attorney who is prosecuting or has prosecuted the serious misdemeanor for which the person is detained or under sentence shall be given immediate notice of the escape of the person accused, convicted, or imprisoned for committing a serious misdemeanor against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(2) If the escape occurs before the sentence is executed or before the defendant is delivered to the sheriff, the chief law enforcement officer of the agency in charge of the person's detention shall give notice of the escape to the prosecuting attorney, who shall then give notice of the escape to a victim who requested notice.

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

Section 2. This amendatory act shall take effect May 1, 1994.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

- (a) Senate Bill No. 138.
- (b) Senate Bill No. 139.
- (c) Senate Bill No. 469.
- (d) Senate Bill No. 470.
- (e) Senate Bill No. 472.
- (f) Senate Bill No. 473.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Co-Clerk of the House of Representatives.

Approved -----

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Governor.