

SB 1180, As Passed Senate, October 5, 2000

**SUBSTITUTE FOR
SENATE BILL NO. 1180**

A bill to amend 1985 PA 87, entitled "Crime victim's rights act," by amending sections 2, 3, 5, 6, 8, 11, 13a, 14, 15, 16, 18a, 19, 21, 31, 32, 35, 36, 38, 39, 41, 41a, 42, 43, 44, 46, 46a, 48, 61, 63, 65, 66, 68, 71, 74, 75, 76, 78, and 78a (MCL 780.752, 780.753, 780.755, 780.756, 780.758, 780.761, 780.763a, 780.764, 780.765, 780.766, 780.768a, 780.769, 780.771, 780.781, 780.782, 780.785, 780.786, 780.788, 780.789, 780.791, 780.791a, 780.792, 780.793, 780.794, 780.796, 780.796a, 780.798, 780.811, 780.813, 780.815, 780.816, 780.818, 780.821, 780.824, 780.825, 780.826, 780.828, and 780.828a), sections 2, 6, 13a, 31, 36, 41a, and 48 as amended by 1998 PA 523, sections 3, 5, 18a, 32, 35, 41, 43, 46, 63, 66, and 78 as amended and section 46a as added by 1993 PA 341, sections 16 and 76 as amended by 1998 PA 232, sections 19 and 78a as amended by 1996 PA 105, sections 38, 39, and 42 as

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added by 1988 PA 22, section 44 as amended by 1996 PA 562, section 61 as amended by 1996 PA 82, and sections 65, 68, 71, 74, and 75 as added by 1988 PA 21, and by adding sections 16a, 36b, 44a, and 76a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) ~~As~~ EXCEPT AS OTHERWISE DEFINED IN THIS ARTI-
2 CLE, AS used in this article:

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

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

10 (c) "Defendant" means a person charged with or convicted of
11 committing a crime against a victim.

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

16 (e) "Juvenile" means a person within the jurisdiction of the
17 circuit court under section 606 of the revised judicature act of
18 1961, 1961 PA 236, MCL 600.606.

19 (f) "Juvenile facility" means a county facility, institution
20 operated as an agency of the county or the family division of
21 circuit court, or an institution or agency described in the youth

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1 rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309,
2 to which a juvenile has been committed or in which a juvenile is
3 detained.

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

6 (h) "Prisoner" means a person who has been convicted and
7 sentenced to imprisonment or placement in a juvenile facility for
8 having committed a crime or an act that would be a crime if com-
9 mitted by an adult against a victim.

10 (i) "Prosecuting attorney" means the prosecuting attorney
11 for a county, an assistant prosecuting attorney for a county, the
12 attorney general, the deputy attorney general, an assistant
13 attorney general, or a special prosecuting attorney.

14 (j) "Victim" ~~, except as otherwise defined in this~~
15 ~~article,~~ means any of the following:

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

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

21 (A) The spouse of the deceased victim.

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

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

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

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

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

8 (iii) A parent, guardian, or custodian of a victim who is
9 less than 18 years of age AND WHO IS NEITHER THE DEFENDANT NOR
10 INCARCERATED, if the parent, guardian, or custodian so chooses.

11 (iv) A parent, guardian, or custodian of a victim who is
12 mentally or emotionally unable to participate in the legal pro-
13 cess IF HE OR SHE IS NEITHER THE DEFENDANT NOR INCARCERATED.

14 (2) If a victim as defined in subsection (1)(j)(i) is physi-
15 cally or emotionally unable to exercise the privileges and rights
16 under this article, the victim may designate his or her spouse,
17 child 18 years of age or older, parent, sibling, ~~or~~
18 grandparent, OR ANY OTHER PERSON 18 YEARS OF AGE OR OLDER WHO IS
19 NEITHER THE DEFENDANT NOR INCARCERATED to act in his or her place
20 while the physical or emotional disability continues. The victim
21 shall provide the prosecuting attorney with the name of the
22 person who is to act in his or her place. During the physical or
23 emotional disability, notices to be provided under this article
24 to the victim shall continue to be sent only to the victim.

25 (3) AN INDIVIDUAL WHO IS CHARGED WITH A CRIME ARISING OUT OF
26 THE SAME TRANSACTION FROM WHICH THE CHARGE AGAINST THE DEFENDANT

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1 AROSE IS NOT ELIGIBLE TO EXERCISE THE PRIVILEGES AND RIGHTS
2 ESTABLISHED FOR VICTIMS UNDER THIS ARTICLE.

3 (4) AN INDIVIDUAL WHO IS INCARCERATED IS NOT ELIGIBLE TO
4 EXERCISE THE PRIVILEGES AND RIGHTS ESTABLISHED FOR VICTIMS UNDER
5 THIS ARTICLE EXCEPT THAT HE OR SHE MAY SUBMIT A WRITTEN STATEMENT
6 TO THE COURT FOR CONSIDERATION AT SENTENCING.

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

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

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

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

19 (d) The following ~~statement~~ STATEMENTS:

20 "IF YOU WOULD LIKE TO BE NOTIFIED OF AN ARREST IN YOUR CASE
21 OR THE RELEASE OF THE PERSON ARRESTED, OR BOTH, YOU SHOULD CALL
22 (IDENTIFY LAW ENFORCEMENT AGENCY AND TELEPHONE NUMBER) AND INFORM
23 THEM."

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

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1 Sec. 5. (1) Not later than 24 hours after the arraignment
2 of the defendant for a crime, the law enforcement agency having
3 responsibility for investigating the crime shall give to the
4 victim notice of the availability of pretrial release for the
5 defendant, the telephone number of the sheriff or juvenile facil-
6 ity, and notice that the victim may contact the sheriff or juve-
7 nile facility to determine whether the defendant has been
8 released from custody. THE LAW ENFORCEMENT AGENCY HAVING RESPON-
9 SIBILITY FOR INVESTIGATING THE CRIME SHALL PROMPTLY NOTIFY THE
10 VICTIM OF THE ARREST OR PRETRIAL RELEASE OF THE DEFENDANT, OR
11 BOTH, IF THE VICTIM REQUESTS OR HAS REQUESTED THAT INFORMATION.
12 IF THE DEFENDANT IS RELEASED FROM CUSTODY BY THE SHERIFF OR JUVE-
13 NILE FACILITY, THE SHERIFF OR JUVENILE FACILITY SHALL NOTIFY THE
14 LAW ENFORCEMENT AGENCY HAVING RESPONSIBILITY FOR INVESTIGATING
15 THE CRIME.

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

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

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

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

3 (C) A CONVENIENT MEANS FOR THE VICTIM TO NOTIFY THE PROSE-
4 CUTING ATTORNEY THAT THE VICTIM CHOOSES TO EXERCISE HIS OR HER
5 RIGHTS UNDER THIS ARTICLE.

6 (D) ~~(c)~~ Details and eligibility requirements FOR COMPENSA-
7 TION FROM THE CRIME VICTIMS SERVICES COMMISSION under 1976
8 PA 223, MCL 18.351 to 18.368.

9 (E) ~~(d)~~ Suggested procedures if the victim is subjected to
10 threats or intimidation.

11 (F) ~~(e)~~ The person to contact for further information.

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

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

22 (4) A victim who receives a notice under subsection (1) and
23 who chooses to receive any ~~other~~ notice or ~~notices~~ EXERCISE
24 ANY RIGHT under this article shall keep the following persons
25 informed of the victim's current address and telephone number:

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

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

3 (c) The family independence agency or county juvenile agency
4 as the prosecuting attorney directs if the defendant is held in a
5 juvenile facility.

6 Sec. 8. (1) Based upon the victim's reasonable apprehension
7 of acts or threats of physical violence or intimidation by the
8 defendant or at defendant's direction against the victim or the
9 victim's immediate family, the ~~prosecutor~~ PROSECUTING ATTORNEY
10 may move that the victim or any other witness not be compelled to
11 testify at pretrial proceedings or at trial for purposes of iden-
12 tifying the victim as to the victim's address, place of employ-
13 ment, or other personal identification without the victim's
14 consent. A hearing on the motion shall be in camera.

15 (2) The WORK ADDRESS AND address of the victim shall not be
16 in the court file or ordinary court documents unless contained in
17 a transcript of the trial or it is used to identify the place of
18 the crime. The ~~phone~~ WORK TELEPHONE NUMBER AND TELEPHONE
19 number of the victim shall not be in the court file or ordinary
20 court documents except as contained in a transcript of the
21 trial.

22 (3) PURSUANT TO SECTION 24 OF ARTICLE I OF THE STATE CONSTI-
23 TUTION OF 1963, GUARANTEEING TO CRIME VICTIMS THE RIGHT TO BE
24 TREATED WITH RESPECT FOR THEIR DIGNITY AND PRIVACY, ALL OF THE
25 FOLLOWING INFORMATION AND VISUAL REPRESENTATIONS OF A VICTIM ARE
26 EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976
27 PA 442, MCL 15.231 TO 15.246:

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1 (A) THE NAME, HOME ADDRESS, HOME TELEPHONE NUMBER, WORK
2 ADDRESS, AND WORK TELEPHONE NUMBER OF THE VICTIM UNLESS THE
3 ADDRESS IS USED TO IDENTIFY THE PLACE OF THE CRIME.

4 (B) A PICTURE, PHOTOGRAPH, DRAWING, OR OTHER VISUAL REPRE-
5 SENTATION, INCLUDING ANY FILM, VIDEOTAPE, OR DIGITALLY STORED
6 IMAGE OF THE VICTIM.

7 Sec. 11. The victim has the right to be present throughout
8 the entire trial of the defendant, unless the victim is going
9 to be called as a witness. If the victim is going to be called
10 as a witness, the court may, for good cause shown, order the
11 victim to be sequestered until the victim first testifies. THE
12 VICTIM SHALL NOT BE SEQUESTERED AFTER HE OR SHE FIRST TESTIFIES.

13
14 Sec. 13a. When a defendant is sentenced to a term of
15 imprisonment or ordered to be placed in a juvenile facility, the
16 prosecuting attorney shall provide the victim with a form the
17 victim may submit to receive the notices provided for under
18 section 19, {20,} or 20a. The form shall include the address of
19 the department of corrections, the sheriff, the family indepen-
20 dence agency, or the county juvenile agency, as applicable, to
21 which the form may be sent.

22 Sec. 14. The victim has the right to submit or make a writ-
23 ten or oral impact statement to the probation officer for use by
24 that officer in preparing a presentence investigation report con-
25 cerning the defendant pursuant to section 14 of chapter XI of the
26 code of criminal procedure, ~~Act No. 175 of the Public Acts of~~
27 ~~1927, being section 771.14 of the Michigan Compiled Laws 1927~~

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1 PA 175, MCL 771.14. A victim's written statement shall upon the
2 victim's request, be included in the presentence investigation
3 report.

4 Sec. 15. The victim ~~shall have~~ HAS the right to appear
5 and make an oral impact statement at the sentencing of the
6 defendant. IF THE VICTIM IS PHYSICALLY OR EMOTIONALLY UNABLE TO
7 MAKE THE ORAL IMPACT STATEMENT, THE VICTIM MAY DESIGNATE ANY
8 OTHER PERSON 18 YEARS OF AGE OR OLDER WHO IS NEITHER THE
9 DEFENDANT NOR A PERSON SERVING A SENTENCE TO MAKE THE STATEMENT
10 ON HIS OR HER BEHALF. THE OTHER PERSON NEED NOT BE AN ATTORNEY.

11 Sec. 16. (1) For purposes of this section only, "victim"
12 means an individual who suffers direct or threatened physical,
13 financial, or emotional harm as a result of the commission of a
14 crime. For purposes of subsections (2), (3), (6), (8), (9), and
15 (13), victim includes a sole proprietorship, partnership, corpo-
16 ration, association, governmental entity, or any other legal
17 entity that suffers direct physical or financial harm as a result
18 of a crime.

19 (2) Except as provided in subsection (8), when sentencing a
20 defendant convicted of a crime, the court shall order, in addi-
21 tion to or in lieu of any other penalty authorized by law or in
22 addition to any other penalty required by law, that the defendant
23 make full restitution to any victim of the defendant's course of
24 conduct that gives rise to the conviction or to the victim's
25 estate.

26 (3) If a crime results in damage to or loss or destruction
27 of property of a victim of the crime or results in the seizure or

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1 impoundment of property of a victim of the crime, the order of
2 restitution may require that the defendant do 1 or more of the
3 following, as applicable:

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

6 (b) If return of the property under subdivision (a) is
7 impossible, impractical, or inadequate, pay an amount equal to
8 the greater of subparagraph (i) or (ii), less the value, deter-
9 mined as of the date the property is returned, of that property
10 or any part of the property that is returned:

11 (i) The value of the property on the date of the damage,
12 loss, or destruction.

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

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

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

18 (a) Pay an amount equal to the cost of ~~actual~~ medical and
19 related professional services and devices ACTUALLY INCURRED AND
20 REASONABLY EXPECTED TO BE INCURRED relating to physical and psy-
21 chological care.

22 (b) Pay an amount equal to the cost of ~~actual~~ physical and
23 occupational therapy and rehabilitation ACTUALLY INCURRED AND
24 REASONABLY EXPECTED TO BE INCURRED.

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

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1 (d) Pay an amount equal to the cost of psychological and
2 medical treatment for members of the victim's family ~~that has~~
3 ~~been~~ ACTUALLY incurred AND REASONABLY EXPECTED TO BE INCURRED as
4 a result of the crime.

5 (e) Pay an amount equal to the costs of ~~actual~~ homemaking
6 and child care expenses ACTUALLY incurred AND REASONABLY EXPECTED
7 TO BE INCURRED as a result of the crime OR, IF HOMEMAKING OR
8 CHILD CARE IS PROVIDED WITHOUT COMPENSATION BY A RELATIVE,
9 FRIEND, OR ANY OTHER PERSON, AN AMOUNT EQUAL TO THE COSTS THAT
10 WOULD REASONABLY BE INCURRED AS A RESULT OF THE CRIME FOR THAT
11 HOMEMAKING AND CHILD CARE, BASED ON THE RATES IN THE AREA FOR
12 COMPARABLE SERVICES.

13 (F) ~~(5) If a crime resulting in bodily injury also results~~
14 ~~in the death of a victim, the order of restitution may require~~
15 ~~that the defendant pay~~ PAY an amount equal to the cost of actual
16 funeral and related services.

17 (G) IF THE DECEASED VICTIM COULD BE CLAIMED AS A DEPENDENT
18 BY HIS OR HER PARENT OR GUARDIAN ON THE PARENT'S OR GUARDIAN'S
19 FEDERAL, STATE, OR LOCAL INCOME TAX RETURNS, PAY AN AMOUNT EQUAL
20 TO THE LOSS OF THE TAX DEDUCTION OR TAX CREDIT. THE AMOUNT OF
21 REIMBURSEMENT SHALL BE ESTIMATED FOR EACH YEAR THE VICTIM COULD
22 REASONABLY BE CLAIMED AS A DEPENDENT.

23 (5) IF A CRIME RESULTING IN BODILY INJURY ALSO RESULTS IN
24 THE DEATH OF A VICTIM OR SERIOUS IMPAIRMENT OF A BODY FUNCTION OF
25 A VICTIM, THE COURT MAY ORDER UP TO 3 TIMES THE AMOUNT OF RESTI-
26 TUTION OTHERWISE ALLOWED UNDER THIS SECTION. AS USED IN THIS

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1 SUBSECTION, "SERIOUS IMPAIRMENT OF A BODY FUNCTION OF A VICTIM"
2 INCLUDES, BUT IS NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:
3 (A) LOSS OF A LIMB OR USE OF A LIMB.
4 (B) LOSS OF A HAND OR FOOT OR USE OF A HAND OR FOOT.
5 (C) LOSS OF AN EYE OR USE OF AN EYE OR EAR.
6 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.
7 (E) SERIOUS VISIBLE DISFIGUREMENT.
8 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.
9 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.
10 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.
11 (I) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.
12 (J) LOSS OF A BODY ORGAN.
13 (6) If the victim or victim's estate consents, the order of
14 restitution may require that the defendant make restitution in
15 services in lieu of money.
16 (7) If the victim is deceased, the court shall order that
17 the restitution be made to the victim's estate.
18 (8) The court shall order restitution to the crime victim
19 services commission or to any individuals, partnerships, corpora-
20 tions, associations, governmental entities, or other legal enti-
21 ties that have compensated the victim or the victim's estate for
22 a loss incurred by the victim to the extent of the compensation
23 paid for that loss. The court shall also order restitution for
24 the costs of services provided to persons or entities that have
25 provided services to the victim as a result of the crime.
26 Services that are subject to restitution under this subsection
27 include, but are not limited to, shelter, food, clothing, and

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1 transportation. However, an order of restitution shall require
2 that all restitution to a victim or victim's estate under the
3 order be made before any restitution to any other person or
4 entity under that order is made. The court shall not order res-
5 titution to be paid to a victim or victim's estate if the victim
6 or victim's estate has received or is to receive compensation for
7 that loss, and the court shall state on the record with specific-
8 ity the reasons for its action. ~~If an entity entitled to resti-~~
9 ~~tution under this subsection for compensating the victim or the~~
10 ~~victim's estate cannot or refuses to be reimbursed for that com-~~
11 ~~pensation, the restitution paid for that entity shall be depos-~~
12 ~~ited by the state treasurer in the crime victim's rights fund~~
13 ~~created under section 4 of 1989 PA 196, MCL 780.904, or its suc-~~
14 ~~cessor fund.~~

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

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

26 (11) If the defendant is placed on probation or paroled or
27 the court imposes a conditional sentence as provided in section 3

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1 of chapter IX of the code of criminal procedure, 1927 PA 175,
2 MCL 769.3, any restitution ordered under this section shall be a
3 condition of that probation, parole, or sentence. The court may
4 revoke probation or impose imprisonment under the conditional
5 sentence and the parole board may revoke parole if the defendant
6 fails to comply with the order and if the defendant has not made
7 a good faith effort to comply with the order. In determining
8 whether to revoke probation or parole or impose imprisonment, the
9 court or parole board shall consider the defendant's employment
10 status, earning ability, and financial resources, the willfulness
11 of the defendant's failure to pay, and any other special circum-
12 stances that may have a bearing on the defendant's ability to
13 pay.

14 (12) A defendant who is required to pay restitution and who
15 is not in willful default of the payment of the restitution may
16 at any time petition the sentencing judge or his or her successor
17 to modify the method of payment. If the court determines that
18 payment under the order will impose a manifest hardship on the
19 defendant or his or her immediate family, AND IF THE COURT ALSO
20 DETERMINES THAT MODIFYING THE METHOD OF PAYMENT WILL NOT IMPOSE A
21 MANIFEST HARDSHIP ON THE VICTIM, the court may modify the method
22 of payment.

23 (13) An order of restitution entered under this section
24 remains effective until it is satisfied in full. An order of
25 restitution is a judgment and lien against all property of the
26 defendant for the amount specified in the order of restitution.
27 The lien may be recorded as provided by law. An order of

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1 restitution may be enforced BY THE COURT SUA SPONTE , OR by
2 the prosecuting attorney, a victim, a victim's estate, or any
3 other person or entity named in the order to receive the restitu-
4 tion in the same manner as a judgment in a civil action or a
5 lien.

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

13 (15) IF THE COURT DETERMINES THAT A JUVENILE IS OR WILL BE
14 UNABLE TO PAY ALL OF THE RESTITUTION ORDERED, AFTER NOTICE TO THE
15 JUVENILE'S PARENT OR PARENTS AND AN OPPORTUNITY FOR THE PARENT OR
16 PARENTS TO BE HEARD THE COURT MAY ORDER THE PARENT OR PARENTS
17 HAVING SUPERVISORY RESPONSIBILITY FOR THE JUVENILE AT THE TIME OF
18 THE ACTS UPON WHICH AN ORDER OF RESTITUTION IS BASED TO PAY ANY
19 PORTION OF THE RESTITUTION ORDERED THAT IS OUTSTANDING. AN ORDER
20 UNDER THIS SUBSECTION DOES NOT RELIEVE THE JUVENILE OF HIS OR HER
21 OBLIGATION TO PAY RESTITUTION AS ORDERED, BUT THE AMOUNT OWED BY
22 THE JUVENILE SHALL BE OFFSET BY ANY AMOUNT PAID BY HIS OR HER
23 PARENT. AS USED IN THIS SUBSECTION:

24 (A) "JUVENILE" MEANS A PERSON WITHIN THE COURT'S JURISDIC-
25 TION UNDER SECTION 2D OR 4 OF CHAPTER XIIA OF THE PROBATE CODE OF
26 1939, MCL 712A.2D AND 712A.4.

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1 (B) "PARENT" DOES NOT INCLUDE A FOSTER PARENT.

2 (16) IF THE COURT ORDERS A PARENT TO PAY RESTITUTION UNDER
3 SUBSECTION (15), THE COURT SHALL TAKE INTO ACCOUNT THE PARENT'S
4 FINANCIAL RESOURCES AND THE BURDEN THAT THE PAYMENT OF RESTITU-
5 TION WILL IMPOSE, WITH DUE REGARD TO ANY OTHER MORAL OR LEGAL
6 FINANCIAL OBLIGATIONS THE PARENT MAY HAVE. IF A PARENT IS
7 REQUIRED TO PAY RESTITUTION UNDER SUBSECTION (15), THE COURT
8 SHALL PROVIDE FOR PAYMENT TO BE MADE IN SPECIFIED INSTALLMENTS
9 AND WITHIN A SPECIFIED PERIOD OF TIME.

10 (17) A PARENT WHO HAS BEEN ORDERED TO PAY RESTITUTION UNDER
11 SUBSECTION (15) MAY PETITION THE COURT FOR A MODIFICATION OF THE
12 AMOUNT OF RESTITUTION OWED BY THE PARENT OR FOR A CANCELLATION OF
13 ANY UNPAID PORTION OF THE PARENT'S OBLIGATION. THE COURT SHALL
14 CANCEL ALL OR PART OF THE PARENT'S OBLIGATION DUE IF THE COURT
15 DETERMINES THAT PAYMENT OF THE AMOUNT DUE WILL IMPOSE A MANIFEST
16 HARDSHIP ON THE PARENT AND IF THE COURT ALSO DETERMINES THAT MOD-
17 IFYING THE METHOD OF PAYMENT WILL NOT IMPOSE A MANIFEST HARDSHIP
18 ON THE VICTIM.

19 (18) ~~(15)~~ In each case in which payment of restitution is
20 ordered as a condition of probation, the COURT MAY ORDER ANY
21 EMPLOYED DEFENDANT TO EXECUTE A WAGE ASSIGNMENT TO PAY THE
22 RESTITUTION. THE probation officer assigned to the case shall
23 review the case not less than twice yearly to ensure that resti-
24 tution is being paid as ordered. IF THE RESTITUTION WAS ORDERED
25 TO BE MADE WITHIN A SPECIFIC PERIOD OF TIME, THE PROBATION OFFI-
26 CER ASSIGNED TO THE CASE SHALL REVIEW THE CASE AT THE END OF THE
27 SPECIFIC PERIOD OF TIME TO DETERMINE IF THE RESTITUTION HAS BEEN

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1 PAID IN FULL. The final review shall be conducted not less than
2 60 days before the probationary period expires. If the probation
3 officer determines AT ANY REVIEW that restitution is not being
4 paid as ordered, the probation officer shall file a written
5 report of the violation with the court on a form prescribed by
6 the state court administrative office OR SHALL PETITION THE COURT
7 FOR A PROBATION VIOLATION. The report OR PETITION shall include
8 a statement of the amount of the arrearage and any reasons for
9 the arrearage known by the probation officer. The probation
10 officer shall immediately provide a copy of the report OR PETITION
11 to the prosecuting attorney. ~~If a motion is filed or other proceedings
12 are initiated to enforce payment of restitution and~~
13 IF the
14 court determines that restitution is not being paid or has not
15 been paid as ordered by the court, the court shall promptly take
16 action necessary to compel compliance.

17 (19) ~~(16)~~ If a defendant who is ordered to pay restitution
18 under this section is remanded to the jurisdiction of the depart-
19 ment of corrections, the court shall provide a copy of the order
20 of restitution to the department of corrections when the
21 defendant is remanded to the department's jurisdiction.

22 (20) THE COURT SHALL NOT IMPOSE A FEE ON A VICTIM, VICTIM'S
23 ESTATE, OR PROSECUTING ATTORNEY FOR ENFORCING AN ORDER OF
24 RESTITUTION.

25 (21) IF A PERSON OR ENTITY ENTITLED TO RESTITUTION CANNOT BE
26 LOCATED OR REFUSES TO CLAIM THAT RESTITUTION WITHIN 2 YEARS AFTER
27 THE DATE ON WHICH HE OR SHE COULD HAVE CLAIMED THE RESTITUTION,
THE RESTITUTION PAID TO THAT PERSON OR ENTITY SHALL BE DEPOSITED

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1 IN THE CRIME VICTIM'S RIGHTS FUND CREATED UNDER SECTION 4 OF 1989
2 PA 196, MCL 780.904, OR ITS SUCCESSOR FUND. HOWEVER, A PERSON OR
3 ENTITY ENTITLED TO THAT RESTITUTION MAY CLAIM THAT RESTITUTION
4 ANY TIME BY APPLYING TO THE COURT THAT ORIGINALLY ORDERED AND
5 COLLECTED IT. THE COURT SHALL NOTIFY THE CRIME VICTIM SERVICES
6 COMMISSION OF THE APPLICATION AND THE COMMISSION SHALL APPROVE A
7 REDUCTION IN THE COURT'S REVENUE TRANSMITTAL TO THE CRIME VICTIM
8 RIGHTS FUND EQUAL TO THE RESTITUTION OWED TO THE PERSON OR
9 ENTITY. THE COURT SHALL USE THE REDUCTION TO REIMBURSE THAT RES-
10 TITUTION TO THE PERSON OR ENTITY.

11 SEC. 16A. (1) IF A PERSON IS SUBJECT TO ANY COMBINATION OF
12 FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
13 SUPERVISION FEES, OR OTHER PAYMENTS ARISING OUT OF THE SAME CRIM-
14 INAL PROCEEDING, MONEY COLLECTED FROM THAT PERSON FOR THE PAYMENT
15 OF FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
16 SUPERVISION FEES, OR OTHER PAYMENTS SHALL BE ALLOCATED AS PRO-
17 VIDED IN THIS SECTION.

18 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF A
19 PERSON IS SUBJECT TO PAYMENT OF VICTIM PAYMENTS AND ANY COMBINA-
20 TION OF OTHER FINES, COSTS, ASSESSMENTS, PROBATION OR PAROLE
21 SUPERVISION FEES, OR OTHER PAYMENTS, 50% OF EACH PAYMENT COL-
22 LECTED BY THE COURT FROM THAT PERSON SHALL BE APPLIED TO PAYMENT
23 OF VICTIM PAYMENTS, AND THE BALANCE SHALL BE APPLIED TO PAYMENT
24 OF FINES, COSTS, SUPERVISION FEES, AND OTHER ASSESSMENTS OR
25 PAYMENTS. IF ANY FINES, COSTS, SUPERVISION FEES, OR OTHER
26 ASSESSMENTS OR PAYMENTS REMAIN UNPAID AFTER ALL OF THE VICTIM
27 PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COLLECTED SHALL BE

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1 APPLIED TO PAYMENT OF THOSE FINES, COSTS, SUPERVISION FEES, OR
2 OTHER ASSESSMENTS OR PAYMENTS. IF ANY VICTIM PAYMENTS REMAIN
3 UNPAID AFTER ALL OF THE FINES, COSTS, SUPERVISION FEES, OR OTHER
4 ASSESSMENTS OR PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COL-
5 LECTED SHALL BE APPLIED TOWARD PAYMENT OF THOSE VICTIM PAYMENTS.

6 (3) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF STATE
7 LAW, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF FINES,
8 COSTS, PROBATION AND PAROLE SUPERVISION FEES, AND ASSESSMENTS OR
9 PAYMENTS OTHER THAN VICTIM PAYMENTS SHALL BE APPLIED IN THE FOL-
10 LOWING ORDER OF PRIORITY:

11 (A) PAYMENT OF COSTS.

12 (B) PAYMENT OF FINES.

13 (C) PAYMENT OF PROBATION OR PAROLE SUPERVISION FEES.

14 (D) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS, INCLUDING
15 REIMBURSEMENT TO THIRD PARTIES WHO REIMBURSED A VICTIM FOR HIS OR
16 HER LOSS.

17 (4) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF LOCAL
18 ORDINANCES, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF
19 FINES, COSTS, AND ASSESSMENTS OR PAYMENTS OTHER THAN VICTIM PAY-
20 MENTS SHALL BE APPLIED IN THE FOLLOWING ORDER OF PRIORITY:

21 (A) PAYMENT OF FINES AND COSTS.

22 (B) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS.

23 (5) AS USED IN THIS SECTION, "VICTIM PAYMENT" MEANS RESTITU-
24 TION ORDERED TO BE PAID TO THE VICTIM, TO THE VICTIM'S ESTATE,
25 BUT NOT TO A PERSON WHO REIMBURSED THE VICTIM FOR HIS OR HER
26 LOSS; OR AN ASSESSMENT ORDERED UNDER SECTION 5 OF 1989 PA 196,
27 MCL 780.905.

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

3 (a) That the defendant ~~has~~ filed an appeal of his or her
4 conviction OR SENTENCE OR THAT THE PROSECUTING ATTORNEY FILED AN
5 APPEAL.

6 (b) Whether the defendant has been ordered released on bail
7 or other recognizance pending the disposition of the appeal. If
8 the prosecuting attorney is notified that the defendant has been
9 ordered released on bail or other recognizance pending disposi-
10 tion of the appeal, the prosecuting attorney shall use any means
11 reasonably calculated to give the victim notice of that order
12 within 24 hours after the prosecuting attorney is notified of the
13 order.

14 (c) The time and place of any appellate court proceedings
15 and any changes in the time or place of those proceedings.

16 (d) The result of the appeal. If the prosecuting attorney
17 is notified that the conviction is ~~ordered~~ reversed, ~~or~~ THE
18 SENTENCE IS VACATED, the case is remanded for further proceedings
19 OR A NEW TRIAL, OR THE PROSECUTING ATTORNEY'S APPEAL IS DENIED,
20 the prosecuting attorney shall use any means reasonably calcu-
21 lated to give the victim notice of that order within 24 hours
22 after the prosecuting attorney is notified of the order. NOT
23 LATER THAN 48 HOURS BEFORE RELEASING AN OPINION OR ORDER THAT
24 REVERSES A CONVICTION, VACATES A SENTENCE, REMANDS A CASE TO THE
25 TRIAL COURT FOR FURTHER PROCEEDINGS OR A NEW TRIAL, OR DENIES A
26 PROSECUTING ATTORNEY'S APPEAL, THE CLERK OF THE APPELLATE COURT

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1 SHALL PROVIDE THE PROSECUTING ATTORNEY OF RECORD WITH A COPY OF
2 THAT ORDER OR OPINION.

3 (2) If the prosecuting attorney is not successful in notify-
4 ing the victim of an event described in subsection (1) within the
5 period set forth in that subsection, ~~for notification,~~ the
6 prosecuting attorney shall notify the victim of that event as
7 soon as possible by any means reasonably calculated to give the
8 victim prompt actual notice.

9 (3) Upon the request of the victim, the prosecuting attorney
10 shall provide the victim with a brief explanation in plain
11 English of the appeal process, including the possible
12 dispositions.

13 (4) If ~~the defendant's conviction is reversed and~~ the case
14 is returned to the trial court for further proceedings OR A NEW
15 TRIAL, the victim ~~shall have~~ HAS the same rights AS previously
16 requested during the proceedings ~~which~~ THAT led to the appeal.

17 Sec. 19. (1) Upon the VICTIM'S written request, ~~of a~~
18 ~~victim of a crime,~~ the sheriff or the department of corrections
19 shall mail to the victim the following, as applicable, about a
20 prisoner who has been sentenced to imprisonment under the juris-
21 diction of the sheriff or the department for ~~commission of that~~
22 THE crime AGAINST THAT VICTIM:

23 (a) Within 30 days after the request, notice of the
24 sheriff's calculation of the PRISONER'S earliest release date ~~of~~
25 ~~the prisoner,~~ or the department's calculation of the PRISONER'S
26 earliest parole eligibility date, ~~of the prisoner,~~ with all
27 potential good time or disciplinary credits considered, if the

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1 sentence of imprisonment exceeds 90 days. The victim may request
2 1-time only notice of the calculation described in this
3 subdivision.

4 (b) Notice of the PRISONER'S transfer or pending transfer
5 ~~of the prisoner~~ to a minimum security facility and the
6 FACILITY'S address. ~~of that facility.~~

7 (c) Notice of the PRISONER'S release or pending release ~~of~~
8 ~~the prisoner~~ in a community residential program ~~,~~ OR under
9 ~~extended~~ furlough; ~~,~~ or any other transfer ~~of a prisoner~~ to
10 community status; ANY TRANSFER FROM 1 COMMUNITY RESIDENTIAL PRO-
11 GRAM OR ELECTRONIC MONITORING PROGRAM TO ANOTHER; OR ANY TRANSFER
12 FROM A COMMUNITY RESIDENTIAL PROGRAM OR ELECTRONIC MONITORING
13 PROGRAM TO A STATE CORRECTIONAL FACILITY.

14 (d) Notice of the escape of the person accused, convicted,
15 or imprisoned for committing a crime against the victim, as pro-
16 vided in section 20.

17 (e) Notice of the victim's right to address or submit a
18 written statement for consideration by a parole board member or a
19 member of any other panel having authority over the prisoner's
20 release on parole, as provided in section 21.

21 (f) Notice of the decision of the parole board, or any other
22 panel having authority over the prisoner's release on parole,
23 after a parole review, as provided in section 21(3).

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

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1 (h) Notice of a public hearing under section 44 of ~~Act~~
2 ~~No. 232 of the Public Acts of 1953, being section 791.244 of the~~
3 ~~Michigan Compiled Laws~~ 1953 PA 232, MCL 791.244, regarding a
4 reprieve, commutation, or pardon of the prisoner's sentence by
5 the governor.

6 (i) Notice that a reprieve, commutation, or pardon has been
7 granted.

8 (j) Notice that a prisoner has had his or her name legally
9 changed while on parole or within 2 years ~~of~~ AFTER release from
10 parole.

11 (K) NOTICE THAT A PRISONER HAS BEEN CONVICTED OF A NEW
12 CRIME.

13 (l) NOTICE THAT A PRISONER HAS BEEN RETURNED FROM PAROLE
14 STATUS TO A CORRECTIONAL FACILITY DUE TO AN ALLEGED VIOLATION OF
15 THE CONDITIONS OF HIS OR HER PAROLE.

16 (2) A victim's address and telephone number maintained by a
17 sheriff or the department of corrections ~~pursuant to~~ UPON a
18 request for notice under subsection (1) is exempt from disclosure
19 under the freedom of information act, ~~Act No. 442 of the Public~~
20 ~~Acts of 1976, being sections 15.231 to 15.246 of the Michigan~~
21 ~~Compiled Laws~~ 1976 PA 442, MCL 15.231 TO 15.246.

22 Sec. 21. (1) A victim shall have the right to address or
23 submit a written statement for consideration by a parole board
24 member or a member of any other panel having authority over the
25 prisoner's release on parole.

26 (2) Not less than 30 days before a review of the prisoner's
27 release, a victim who has requested notice under section 19(1)(f)

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1 shall be given written notice by the department of corrections
2 informing the victim of the pending review and of victims' rights
3 under this section. The victim, at his or her own expense, may
4 be represented by counsel at the review.

5 (3) A victim shall receive notice of the decision of the
6 board or panel and, if applicable, notice of the date of the
7 prisoner's release on parole. Notice shall be mailed within a
8 reasonable time after the board or panel reaches its decision but
9 not later than 14 days after the board or panel has reached its
10 decision. THE NOTICE SHALL INCLUDE A STATEMENT OF THE VICTIM'S
11 RIGHT TO APPEAL A PAROLE DECISION, AS ALLOWED UNDER SECTION 34(9)
12 OF 1953 PA 232, MCL 791.234.

13 Sec. 31. (1) ~~As~~ EXCEPT AS OTHERWISE DEFINED IN THIS ARTI-
14 CLE, AS used in this article:

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

18 (b) "Court" means the ~~juvenile~~ FAMILY division of ~~the~~
19 ~~probate~~ CIRCUIT court.

20 (c) "DESIGNATED CASE" MEANS A CASE DESIGNATED AS A CASE IN
21 WHICH THE JUVENILE IS TO BE TRIED IN THE SAME MANNER AS AN ADULT
22 UNDER SECTION 2D OF CHAPTER XIIIA OF THE PROBATE CODE OF 1939, 1939
PA 288, MCL 712A.2D.

23 (d) ~~(c)~~ "Juvenile" means an individual alleged or found to
24 be within the court's jurisdiction under section 2(a)(1) of chap-
25 ter XIIIA of THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.2,
26 for an offense, INCLUDING, BUT NOT LIMITED TO, AN INDIVIDUAL IN A
27 DESIGNATED CASE.

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1 (E) ~~(d)~~ "Juvenile facility" means a county facility, an
2 institution operated as an agency of the county or the court, or
3 an institution or agency described in the youth rehabilitation
4 services act, 1974 PA 150, MCL 803.301 to 803.309, to which a
5 juvenile has been committed or in which a juvenile is detained.

6 (F) ~~(e)~~ "Offense" means 1 or more of the following:

7 (i) A violation of a penal law of this state for which a
8 juvenile offender, if convicted as an adult, may be punished by
9 imprisonment for more than 1 year or an offense expressly desig-
10 nated by law as a felony.

11 (ii) A violation of section 81 (ASSAULT AND BATTERY, INCLUD-
12 ING DOMESTIC VIOLENCE), 81a (ASSAULT; INFLICTION OF SERIOUS
13 INJURY, INCLUDING AGGRAVATED DOMESTIC VIOLENCE), 115 (BREAKING
14 AND ENTERING OR ILLEGAL ENTRY), 136b(5) (CHILD ABUSE IN THE
15 FOURTH DEGREE), 145a (ENTICING A CHILD FOR IMMORAL PURPOSES), 234
16 (DISCHARGE OF A FIREARM INTENTIONALLY AIMED AT A PERSON), 235
17 (DISCHARGE OF AN INTENTIONALLY AIMED FIREARM RESULTING IN
18 INJURY), 335a (INDECENT EXPOSURE), or 411h (STALKING) of the
19 Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.115,
20 750.136b, 750.145a, 750.234, 750.235, 750.335a, and 750.411h.

21 (iii) A violation of section 617a (LEAVING THE SCENE OF A
22 PERSONAL INJURY ACCIDENT) of the Michigan vehicle code, 1949
23 PA 300, MCL 257.617a, or a violation of section 625 (OPERATING A
24 VEHICLE WHILE UNDER THE INFLUENCE OF OR IMPAIRED BY INTOXICATING
25 LIQUOR OR A CONTROLLED SUBSTANCE, OR WITH UNLAWFUL BLOOD ALCOHOL
26 CONTENT) of that act, MCL 257.625, if the violation involves an

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1 accident resulting in damage to another individual's property or
2 physical injury or death to another individual.

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

8 (v) A violation of section 80176(1) or (3) (OPERATING A
9 VESSEL WHILE UNDER THE INFLUENCE OF OR IMPAIRED BY INTOXICATING
10 LIQUOR OR A CONTROLLED SUBSTANCE, OR WITH UNLAWFUL BLOOD ALCOHOL
11 CONTENT) of the natural resources and environmental protection
12 act, 1994 PA 451, MCL 324.80176, if the violation involves an
13 accident resulting in damage to another individual's property or
14 physical injury or death to any individual.

15 (vi) A violation of a local ordinance substantially corre-
16 sponding to a law enumerated in subparagraphs (i) to (v).

17 (vii) A violation described in subparagraphs (i) to (vi)
18 that is subsequently reduced to a violation not included in sub-
19 paragraphs (i) to (vi).

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

22 (g) "Prosecuting attorney" means the prosecuting attorney
23 for a county, an assistant prosecuting attorney for a county, the
24 attorney general, the deputy attorney general, an assistant
25 attorney general, a special prosecuting attorney, or in connec-
26 tion with the prosecution of an ordinance violation, an attorney

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1 for the political subdivision that enacted the ordinance upon
2 which the violation is based.

3 (h) "Victim" ~~, except as otherwise defined in this~~
4 ~~article,~~ means any of the following:

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

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

11 (A) The spouse of the deceased victim.

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

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

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

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

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

23 (iii) A parent, guardian, or custodian of a victim who is
24 less than 18 years of age AND WHO IS NEITHER THE DEFENDANT NOR
25 INCARCERATED, if the parent, guardian, or custodian so chooses.

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1 (iv) A parent, guardian, or custodian of a victim who is
2 mentally or emotionally unable to participate in the legal
3 process IF HE OR SHE IS NEITHER THE DEFENDANT NOR INCARCERATED.

4 (2) If a victim as defined in subsection (1)(h)(i) is physi-
5 cally or emotionally unable to exercise the privileges and rights
6 under this article, the victim may designate his or her spouse,
7 child 18 years of age or older, parent, sibling, ~~or~~
8 grandparent, OR ANY OTHER PERSON 18 YEARS OF AGE OR OLDER WHO IS
9 NEITHER THE DEFENDANT NOR INCARCERATED to act in his or her place
10 while the physical or emotional disability continues. The victim
11 shall provide the prosecuting attorney with the name of the
12 person who is to act in his or her place. During the physical or
13 emotional disability, notices to be provided under this article
14 to the victim shall continue to be sent only to the victim.

15 (3) AN INDIVIDUAL WHO IS CHARGED WITH AN OFFENSE ARISING OUT
16 OF THE SAME TRANSACTION FROM WHICH THE CHARGE AGAINST THE
17 DEFENDANT AROSE IS NOT ELIGIBLE TO EXERCISE THE PRIVILEGES AND
18 RIGHTS ESTABLISHED FOR VICTIMS UNDER THIS ARTICLE.

19 Sec. 32. Within 24 hours after the initial contact between
20 the victim of a reported offense and the law enforcement agency
21 having the responsibility for investigating that offense, that
22 agency shall give to the victim the following information in
23 writing:

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

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

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

4 (d) The following ~~statement~~ STATEMENTS:

5 "IF YOU WOULD LIKE TO BE NOTIFIED OF AN ARREST IN YOUR CASE
6 OR THE RELEASE OF THE PERSON ARRESTED, OR BOTH, YOU SHOULD CALL
7 (IDENTIFY LAW ENFORCEMENT AGENCY AND TELEPHONE NUMBER) AND INFORM
8 THEM."

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

12 Sec. 35. (1) If the juvenile has been placed in a juvenile
13 facility, not later than 48 hours after the preliminary hearing
14 of that juvenile for a juvenile offense, the prosecuting attorney
15 or, pursuant to an agreement under section 48a, the court shall
16 give to the victim the telephone number of the juvenile facility
17 and notice that the victim may contact the juvenile facility to
18 determine whether the juvenile has been released from custody.
19 THE LAW ENFORCEMENT AGENCY HAVING RESPONSIBILITY FOR INVESTIGAT-
20 ING THE CRIME SHALL PROMPTLY NOTIFY THE VICTIM OF THE ARREST OR
21 PRETRIAL RELEASE OF THE JUVENILE, OR BOTH, IF THE VICTIM REQUESTS
22 OR HAS REQUESTED THAT INFORMATION. IF THE JUVENILE IS RELEASED
23 FROM CUSTODY BY THE SHERIFF OR JUVENILE FACILITY, THE SHERIFF OR
24 JUVENILE FACILITY SHALL NOTIFY THE LAW ENFORCEMENT AGENCY HAVING
25 RESPONSIBILITY FOR INVESTIGATING THE CRIME.

26 (2) Based upon any credible evidence of acts or threats of
27 physical violence or intimidation by the juvenile or at the

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1 juvenile's direction against the victim or the victim's immediate
2 family, the prosecuting attorney may move that the juvenile be
3 detained in a juvenile facility.

4 Sec. 36. (1) THE COURT SHALL ACCEPT A PETITION SUBMITTED BY
5 A PROSECUTING ATTORNEY THAT SEEKS TO INVOKE THE COURT'S JURISDIC-
6 TION FOR A JUVENILE OFFENSE, UNLESS THE COURT FINDS ON THE RECORD
7 THAT THE PETITIONER'S ALLEGATIONS ARE INSUFFICIENT TO SUPPORT A
8 CLAIM OF JURISDICTION UNDER SECTION 2(A)(1) OF CHAPTER XIIA OF
9 THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.2.

10 (2) ~~(1)~~ Within 72 hours after the prosecuting attorney
11 files or submits a petition seeking to invoke the court's juris-
12 diction for an offense, the prosecuting attorney, or the court
13 pursuant to an agreement under section 48a, shall give to each
14 victim a written notice in plain English of each of the
15 following:

16 (a) A brief statement of the procedural steps in ~~the~~ pro-
17 cessing ~~of~~ a juvenile ~~offense~~ case, including the fact that a
18 juvenile may be TRIED IN THE SAME MANNER AS AN ADULT IN A DESIG-
19 NATED CASE OR waived to the court of general criminal
20 jurisdiction.

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

23 (c) A CONVENIENT MEANS FOR THE VICTIM TO NOTIFY THE PROSE-
24 CUTING ATTORNEY THAT THE VICTIM CHOOSES TO EXERCISE HIS OR HER
25 RIGHTS UNDER THIS ARTICLE.

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1 (D) ~~(c)~~ Details and eligibility requirements FOR
2 COMPENSATION FROM THE CRIME VICTIMS SERVICES COMMISSION under
3 1976 PA 223, MCL 18.351 to 18.368.

4 (E) ~~(d)~~ Suggested procedures if the victim is subjected to
5 threats or intimidation.

6 (F) ~~(e)~~ The person to contact for further information.

7 (3) ~~(2)~~ If the victim requests, the prosecuting attorney,
8 or the court pursuant to an agreement under section 48a, shall
9 give the victim notice of any scheduled court proceedings and any
10 changes in that schedule.

11 (4) ~~(3)~~ If the juvenile has not already entered a plea of
12 admission or no contest to the original charge at the preliminary
13 hearing, the prosecuting attorney shall offer the victim the
14 opportunity to consult with the prosecuting attorney to obtain
15 the victim's views about the disposition of the offense, includ-
16 ing the victim's views about dismissal, waiver, and pretrial
17 diversion programs, before finalizing any agreement to reduce the
18 original charge.

19 ~~(4) Before placing a juvenile in a pretrial diversion pro-~~
20 ~~gram for committing a violation that if committed by an adult~~
21 ~~would be a crime or a serious misdemeanor, the court shall give~~
22 ~~the victim an opportunity to be heard regarding that placement.~~
23 ~~The victim has the right to make a statement at the hearing or~~
24 ~~submit a written statement, or both. As used in this~~
25 ~~subsection:~~

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

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

3 (5) A victim who receives a notice under subsection (1) and
4 chooses to receive any ~~other~~ notice OR EXERCISE ANY RIGHT under
5 this article shall keep the following persons informed of the
6 victim's current address and telephone number:

7 (a) The prosecuting attorney, or the court if an agreement
8 under section 48a exists.

9 (b) If the juvenile is made a public ward, the family inde-
10 pendence agency or county juvenile agency, as applicable.

11 (c) IF THE JUVENILE IS IMPRISONED, THE DEPARTMENT OF CORREC-
12 TIONS OR THE SHERIFF AS DIRECTED BY THE PROSECUTING ATTORNEY.

13 SEC. 36B. (1) EXCEPT FOR A DISMISSAL BASED UPON A JUDICIAL
14 FINDING ON THE RECORD THAT THE PETITION AND THE FACTS SUPPORTING
15 IT ARE INSUFFICIENT TO SUPPORT A CLAIM OF JURISDICTION UNDER SEC-
16 TION 2(A)(1) OF CHAPTER XIIIA OF THE PROBATE CODE OF 1939, 1939
17 PA 288, MCL 712A.2, A CASE INVOLVING THE ALLEGED COMMISSION OF AN
18 OFFENSE, AS DEFINED IN SECTION 31, BY A JUVENILE SHALL NOT BE
19 DIVERTED, PLACED ON THE CONSENT CALENDAR, OR MADE SUBJECT TO ANY
20 OTHER PREPETITION OR PREADJUDICATION PROCEDURE THAT REMOVES THE
21 CASE FROM THE ADJUDICATIVE PROCESS UNLESS THE COURT GIVES WRITTEN
22 NOTICE TO THE PROSECUTING ATTORNEY OF THE COURT'S INTENT TO
23 REMOVE THE CASE FROM THE ADJUDICATIVE PROCESS AND ALLOWS THE
24 PROSECUTING ATTORNEY THE OPPORTUNITY TO ADDRESS THE COURT ON THAT
25 ISSUE BEFORE THE CASE IS REMOVED FROM THE ADJUDICATIVE PROCESS.
26 BEFORE ANY FORMAL OR INFORMAL ACTION IS TAKEN, THE PROSECUTOR
27 SHALL GIVE THE VICTIM NOTICE OF THE TIME AND PLACE OF THE HEARING

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1 ON THE PROPOSED REMOVAL OF THE CASE FROM THE ADJUDICATIVE
2 PROCESS. THE VICTIM HAS THE RIGHT TO ATTEND THE HEARING AND TO
3 ADDRESS THE COURT AT THE HEARING. AS PART OF ANY OTHER ORDER
4 REMOVING ANY CASE FROM THE ADJUDICATIVE PROCESS, THE COURT SHALL
5 ORDER THE JUVENILE OR THE JUVENILE'S PARENTS TO PROVIDE FULL RES-
6 TITUTION AS PROVIDED IN SECTION 44.

7 (2) BEFORE FINALIZING ANY INFORMAL DISPOSITION, PREADJUDICA-
8 TION, OR EXPEDITED PROCEDURE, THE PROSECUTING ATTORNEY SHALL
9 OFFER THE VICTIM THE OPPORTUNITY TO CONSULT WITH THE PROSECUTING
10 ATTORNEY TO OBTAIN THE VIEWS OF THE VICTIM ABOUT THAT MANNER OF
11 DISPOSING OF THE CASE.

12 Sec. 38. (1) Based upon the victim's reasonable apprehen-
13 sion of acts or threats of physical violence or intimidation by
14 the juvenile or at the juvenile's direction against the victim or
15 the victim's immediate family, the prosecuting attorney may move
16 or, in the absence of a prosecuting attorney, the victim may
17 request that the victim or any other witness not be compelled to
18 testify at any court hearing for purposes of identifying the
19 victim as to the victim's address, place of employment, or other
20 personal identification without the victim's consent. A hearing
21 on the motion shall be in camera.

22 (2) PURSUANT TO SECTION 24 OF ARTICLE I OF THE STATE CONSTI-
23 TUTION OF 1963, GUARANTEEING TO CRIME VICTIMS THE RIGHT TO BE
24 TREATED WITH RESPECT FOR THEIR DIGNITY AND PRIVACY, ALL OF THE
25 FOLLOWING INFORMATION AND VISUAL REPRESENTATIONS OF A VICTIM ARE
26 EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976
27 PA 442, MCL 15.231 TO 15.246:

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1 (A) THE NAME, HOME ADDRESS, HOME TELEPHONE NUMBER, WORK
2 ADDRESS, AND WORK TELEPHONE NUMBER OF THE VICTIM.

3 (B) A PICTURE, PHOTOGRAPH, DRAWING, OR OTHER VISUAL REPRESENTATION,
4 INCLUDING ANY FILM, VIDEOTAPE, OR DIGITALLY STORED
5 IMAGE OF THE VICTIM.

6 Sec. 39. The victim has the right to be present throughout
7 the entire contested adjudicative hearing, or waiver hearing of
8 the juvenile, unless the victim is going to be called as a witness.
9 If the victim is going to be called as a witness, the court, for
10 good cause shown, may order the victim to be sequestered until the
11 victim first testifies. THE VICTIM SHALL NOT BE SEQUESTERED AFTER
12 HE OR SHE FIRST TESTIFIES.

13 [REDACTED]

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

18 (a) The offenses for which the juvenile was adjudicated OR
19 CONVICTED.

20 (b) The victim's right to make ~~a written or oral~~ AN impact
21 statement at ~~a~~ THE disposition hearing OR SENTENCING.

22 (c) The time and place of the disposition OR SENTENCING
23 proceeding.

24 (2) If ~~there is to be~~ a report IS TO BE prepared for the
25 ~~purpose of~~ JUVENILE'S disposition ~~concerning the juvenile~~ OR
26 FOR A SENTENCING IN A PROCEEDING THAT IS A DESIGNATED CASE, the

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1 person preparing the report shall give notice to the victim of
2 all of the following:

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

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

7 (c) ~~That~~ THE FACT THAT the report and any statement of the
8 victim included in the report will be made available to the juve-
9 nile unless exempted from disclosure by the court.

10 (3) A notice ~~given~~ under ~~subsections (1) and~~ SUBSECTION
11 (1) OR (2) shall inform the victim that his or her impact state-
12 ment may BE ORAL OR WRITTEN AND MAY include, but shall not be
13 limited to, ANY OF the following:

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

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

19 (c) An opinion of the need for ~~,~~ and extent of ~~,~~ resti-
20 tution and whether the victim has applied for or received compen-
21 sation for loss or damage.

22 (d) The victim's recommendation for an appropriate disposi-
23 tion OR SENTENCE.

24 Sec. 41a. When a juvenile is ordered to be placed in a
25 juvenile facility OR SENTENCED TO A TERM OF IMPRISONMENT, the
26 prosecuting attorney, or the court pursuant to an agreement under
27 section 48a, shall provide the victim with a form the victim may

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1 submit to receive the notices from the family independence agency
2 or county juvenile agency, as applicable, provided for under
3 section 48. The form shall include the address of the family
4 independence agency, ~~or~~ county juvenile agency, DEPARTMENT OF
5 CORRECTIONS, OR THE SHERIFF, AS APPLICABLE, to which the form may
6 be sent.

7 Sec. 42. (1) If ~~there is to be~~ a report IS TO BE prepared
8 for the ~~purpose of~~ JUVENILE'S disposition ~~concerning the~~
9 ~~juvenile~~ OR FOR A SENTENCING IN A PROCEEDING THAT IS A DESIG-
10 NATED CASE, the victim ~~shall be permitted~~ HAS THE RIGHT to
11 submit a written or oral impact statement to the person preparing
12 the report for THAT PERSON'S use ~~by that person~~ in ~~the prepa-~~
13 ~~ration of~~ PREPARING the report.

14 (2) IF NO PRESENTENCE REPORT IS PREPARED, THE COURT SHALL
15 NOTIFY THE PROSECUTING ATTORNEY OF THE DATE AND TIME OF SENTENC-
16 ING AT LEAST 10 DAYS PRIOR TO THE DISPOSITION OR SENTENCING.

17 (3) Upon the victim's request, a victim's written statement
18 UNDER THIS SECTION shall be included in the report.

19 Sec. 43. (1) The victim ~~shall have~~ HAS the right to
20 appear and make an oral impact statement at the JUVENILE'S dispo-
21 sition ~~of the juvenile~~ OR SENTENCING. IF THE VICTIM IS PHYSI-
22 CALLY OR EMOTIONALLY UNABLE TO MAKE THE ORAL IMPACT STATEMENT,
23 THE VICTIM MAY DESIGNATE ANY OTHER PERSON 18 YEARS OF AGE OR
24 OLDER WHO IS NEITHER THE DEFENDANT NOR A PERSON SERVING A SEN-
25 TENCE TO MAKE THE STATEMENT ON HIS OR HER BEHALF. THE OTHER
26 PERSON NEED NOT BE AN ATTORNEY.

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1 (2) Upon request, the victim shall be notified by the
2 prosecuting attorney, or, pursuant to an agreement under
3 section 48a, the court of the disposition of the juvenile's
4 offense not more than ~~14~~ 30 days after the disposition is
5 made.

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

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

11 (b) "Victim" means an individual who suffers direct or
12 threatened physical, financial, or emotional harm as a result of
13 the commission of an offense. For purposes of subsections (2),
14 (3), (6), (8), (9), and (13), victim includes a sole proprietor-
15 ship, partnership, corporation, association, governmental entity,
16 or any other legal entity that suffers direct physical or finan-
17 cial harm as a result of an offense.

18 (2) Except as provided in subsection (8), at the disposi-
19 tional hearing OR SENTENCING for an offense, the court shall
20 order, in addition to or in lieu of any other disposition OR
21 PENALTY authorized by law, that the juvenile make full restitu-
22 tion to any victim of the juvenile's course of conduct that gives
23 rise to the disposition OR CONVICTION or to the victim's estate.
24 FOR AN OFFENSE THAT IS RESOLVED INFORMALLY BY MEANS OF A CONSENT
25 CALENDAR DIVERSION OR ANY OTHER INFORMAL METHOD THAT DOES NOT
26 RESULT IN A DISPOSITIONAL HEARING, THE COURT SHALL ORDER THE
27 RESTITUTION REQUIRED UNDER THIS SECTION.

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1 (3) If an offense results in damage to or loss or
2 destruction of property of a victim of the offense ~~—,~~ or results
3 in the seizure or impoundment of property of a victim of the
4 offense, the order of restitution may require that the juvenile
5 do 1 or more of the following, as applicable:

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

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

13 (i) The value of the property on the date of the damage,
14 loss, or destruction.

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

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

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

20 (a) Pay an amount equal to the cost of ~~actual~~ medical and
21 related professional services and devices ACTUALLY INCURRED AND
22 REASONABLY EXPECTED TO BE INCURRED relating to physical and psy-
23 chological care.

24 (b) Pay an amount equal to the cost of ~~actual~~ physical and
25 occupational therapy and rehabilitation ACTUALLY INCURRED AND
26 REASONABLY EXPECTED TO BE INCURRED.

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

4 (d) Pay an amount equal to the cost of psychological and
5 medical treatment for members of the victim's family ~~that has~~
6 ~~been~~ ACTUALLY incurred OR REASONABLY EXPECTED TO BE INCURRED as
7 a result of the offense.

8 (e) Pay an amount equal the costs of ~~actual~~ homemaking and
9 child care expenses ACTUALLY incurred OR REASONABLY EXPECTED TO
10 BE INCURRED as a result of the offense OR, IF HOMEMAKING OR CHILD
11 CARE IS PROVIDED WITHOUT COMPENSATION BY A RELATIVE, FRIEND, OR
12 ANY OTHER PERSON, AN AMOUNT EQUAL TO THE COSTS THAT WOULD REASON-
13 ABLY BE INCURRED AS A RESULT OF THE OFFENSE FOR THAT HOMEMAKING
14 AND CHILD CARE, BASED ON THE RATES IN THE AREA FOR COMPARABLE
15 SERVICES.

16 (F) ~~(5) If an offense resulting in bodily injury also~~
17 ~~results in the death of a victim, the order of restitution may~~
18 ~~require that the juvenile pay~~ PAY an amount equal to the cost of
19 actual funeral and related services.

20 (G) IF THE DECEASED VICTIM COULD BE CLAIMED AS A DEPENDENT
21 BY HIS OR HER PARENT OR GUARDIAN ON THE PARENT'S OR GUARDIAN'S
22 FEDERAL, STATE, OR LOCAL INCOME TAX RETURNS, PAY AN AMOUNT EQUAL
23 TO THE LOSS OF THE TAX DEDUCTION OR TAX CREDIT. THE AMOUNT OF
24 REIMBURSEMENT SHALL BE ESTIMATED FOR EACH YEAR THE VICTIM COULD
25 REASONABLY BE CLAIMED AS A DEPENDENT.

26 (5) IF AN OFFENSE RESULTING IN BODILY INJURY ALSO RESULTS IN
27 THE DEATH OF A VICTIM OR SERIOUS IMPAIRMENT OF A BODY FUNCTION OF

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1 A VICTIM, THE COURT MAY ORDER UP TO 3 TIMES THE AMOUNT OF
2 RESTITUTION OTHERWISE ALLOWED UNDER THIS SECTION. AS USED IN
3 THIS SUBSECTION, "SERIOUS IMPAIRMENT OF A BODY FUNCTION OF A
4 VICTIM" INCLUDES, BUT IS NOT LIMITED TO, 1 OR MORE OF THE
5 FOLLOWING:

6 (A) LOSS OF A LIMB OR USE OF A LIMB.

7 (B) LOSS OF A HAND OR FOOT OR USE OF A HAND OR FOOT.

8 (C) LOSS OF AN EYE OR USE OF AN EYE OR EAR.

9 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.

10 (E) SERIOUS VISIBLE DISFIGUREMENT.

11 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.

12 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.

13 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.

14 (I) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.

15 (J) LOSS OF A BODY ORGAN.

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

19 (7) If the victim is deceased, the court shall order that
20 the restitution be made to the victim's estate.

21 (8) The court shall order restitution to the crime ~~victims~~
22 ~~compensation board~~ VICTIM SERVICES COMMISSION or to any individ-
23 uals, partnerships, corporations, associations, governmental
24 entities, or other legal entities that have compensated the
25 victim or the victim's estate for a loss incurred by the victim
26 to the extent of the compensation paid for that loss. The court
27 shall also order restitution for the costs of services provided

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1 to persons or entities that have provided services to the victim
2 as a result of the offense. Services that are subject to resti-
3 tution under this subsection include, but are not limited to,
4 shelter, food, clothing, and transportation. However, an order
5 of restitution shall require that all restitution to a victim or
6 victim's estate under the order be made before any restitution to
7 any other person or entity under that order is made. The court
8 shall not order restitution to be paid to a victim or victim's
9 estate if the victim or victim's estate has received or is to
10 receive compensation for that loss, and the court shall state on
11 the record with specificity the reasons for its action. ~~If an~~
12 ~~entity entitled to restitution under this subsection for compen-~~
13 ~~sating the victim or the victim's estate cannot or refuses to be~~
14 ~~reimbursed for that compensation, the restitution paid for that~~
15 ~~entity shall be deposited in the crime victim's rights assessment~~
16 ~~fund or its successor fund.~~

17 (9) Any amount paid to a victim or victim's estate under an
18 order of restitution shall be set off against any amount later
19 recovered as compensatory damages by the victim or the victim's
20 estate in any federal or state civil proceeding and shall reduce
21 the amount payable to a victim or a victim's estate by an award
22 from the crime ~~victims compensation board~~ VICTIM SERVICES
23 COMMISSION made after an order of restitution under this
24 section.

25 (10) If not otherwise provided by the court under this sub-
26 section, restitution shall be made immediately. However, the

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1 court may require that the juvenile make restitution under this
2 section within a specified period or in specified installments.

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

13 (12) A juvenile who is required to pay restitution and who
14 is not in willful default of the payment of the restitution may
15 at any time petition the court to modify the method of payment.
16 If the court determines that payment under the order will impose
17 a manifest hardship on the juvenile or his or her immediate
18 family, AND IF THE COURT ALSO DETERMINES THAT MODIFYING THE
19 METHOD OF PAYMENT WILL NOT IMPOSE A MANIFEST HARDSHIP ON THE
20 VICTIM, the court may modify the method of payment.

21 (13) An order of restitution entered under this section
22 remains effective until it is satisfied in full. An order of
23 restitution is a judgment and lien against all property of the
24 individual ordered to pay restitution for the amount specified in
25 the order of restitution. The lien may be recorded as provided
26 by law. An order of restitution may be enforced BY THE COURT SUA
27 SPONTE , OR by the prosecuting attorney, a victim, a victim's

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1 estate, or any other person or entity named in the order to
2 receive the restitution in the same manner as a judgment in a
3 civil action or a lien.

4 (14) Notwithstanding any other provision of this section, a
5 juvenile shall not be detained OR IMPRISONED for a violation of
6 probation ~~—~~ or PAROLE OR otherwise ~~—~~ for failure to pay res-
7 titution as ordered under this section unless the court deter-
8 mines that the juvenile has the resources to pay the ordered res-
9 titution and has not made a good faith effort to do so.

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

22 (16) If the court orders a parent to pay restitution under
23 subsection (15), the court shall take into account the PARENT'S
24 financial resources ~~of the parent~~ and the burden that the pay-
25 ment of restitution will impose, with due regard to any other
26 moral or legal financial obligations ~~that~~ the parent may have.
27 If a parent is required to pay restitution under subsection (15),

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1 the court shall provide for payment to be made in specified
2 installments and within a specified period of time.

3 (17) A parent who has been ordered to pay restitution under
4 subsection (15) may petition the court for a modification of the
5 amount of restitution owed by the parent or for a cancellation of
6 any unpaid portion of the parent's obligation. The court shall
7 cancel all or part of the parent's obligation due if the court
8 determines that payment of the amount due will impose a manifest
9 hardship on the parent AND IF THE COURT ALSO DETERMINES THAT MOD-
10 IFYING THE METHOD OF PAYMENT WILL NOT IMPOSE A MANIFEST HARDSHIP
11 ON THE VICTIM.

12 (18) In each case in which payment of restitution is ordered
13 as a condition of probation, the COURT MAY ORDER ANY EMPLOYED
14 JUVENILE TO EXECUTE A WAGE ASSIGNMENT TO PAY THE RESTITUTION.
15 THE juvenile caseworker or probation officer assigned to the case
16 shall review the case not less than twice yearly to ensure that
17 restitution is being paid as ordered. IF THE RESTITUTION WAS
18 ORDERED TO BE MADE WITHIN A SPECIFIC PERIOD OF TIME, THE JUVENILE
19 CASEWORKER OR PROBATION OFFICER ASSIGNED TO THE CASE SHALL REVIEW
20 THE CASE AT THE END OF THE SPECIFIC PERIOD OF TIME TO DETERMINE
21 IF THE RESTITUTION HAS BEEN PAID IN FULL. The final review shall
22 be conducted not less than 60 days before the ~~expiration of the~~
23 probationary period EXPIRES. If the juvenile caseworker or pro-
24 bation officer determines AT ANY REVIEW the restitution is not
25 being paid as ordered, the juvenile caseworker or probation offi-
26 cer shall file a written report of the violation with the court
27 on a form prescribed by the state court administrative office OR
SHALL PETITION THE COURT FOR A PROBATION VIOLATION.

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1 The report OR PETITION shall include a statement of the amount of
2 the
3 arrearage, and any reasons for the arrearage ~~that are~~ known by
4 the juvenile caseworker or probation officer. The juvenile case-
5 worker or probation officer shall immediately provide a copy of
6 the report OR PETITION to the prosecuting attorney. ~~If a motion is
7 filed or
8 other proceedings are initiated to enforce payment of restitution
9 and~~

8 ~~IF~~ IF the court determines that restitution is not being
9 paid or has not been paid as ordered by the court, the court
10 shall promptly take action necessary to compel compliance.

11 (19) If the court determines that an individual who is
12 ordered to pay restitution under this section is remanded to the
13 jurisdiction of the department of corrections, the court shall
14 provide a copy of the order of restitution to the department of
15 corrections when the court determines that the individual is
16 remanded to the department's jurisdiction.

17 (20) THE COURT SHALL NOT IMPOSE A FEE ON A VICTIM, VICTIM'S
18 ESTATE, OR PROSECUTING ATTORNEY FOR ENFORCING AN ORDER OF
19 RESTITUTION.

20 (21) IF A PERSON OR ENTITY ENTITLED TO RESTITUTION CANNOT BE
21 LOCATED OR REFUSES TO CLAIM THAT RESTITUTION WITHIN 2 YEARS AFTER
22 THE DATE ON WHICH HE OR SHE COULD HAVE CLAIMED THE RESTITUTION,
23 THE RESTITUTION PAID TO THAT PERSON OR ENTITY SHALL BE DEPOSITED
24 IN THE CRIME VICTIM'S RIGHTS FUND CREATED UNDER SECTION 4 OF 1989
25 PA 196, MCL 780.904, OR ITS SUCCESSOR FUND. HOWEVER, A PERSON OR
26 ENTITY ENTITLED TO THAT RESTITUTION MAY CLAIM THAT RESTITUTION
27 ANY TIME BY APPLYING TO THE COURT THAT ORIGINALLY ORDERED AND

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1 COLLECTED IT. THE COURT SHALL NOTIFY THE CRIME VICTIM SERVICES
2 COMMISSION OF THE APPLICATION AND THE COMMISSION SHALL APPROVE A
3 REDUCTION IN THE COURT'S REVENUE TRANSMITTAL TO THE CRIME VICTIM
4 RIGHTS FUND EQUAL TO THE RESTITUTION OWED TO THE PERSON OR
5 ENTITY. THE COURT SHALL USE THE REDUCTION TO REIMBURSE THAT RES-
6 TITUTION TO THE PERSON OR ENTITY.

7 SEC. 44A. (1) IF A JUVENILE IS SUBJECT TO ANY COMBINATION
8 OF FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
9 SUPERVISION FEES, OR OTHER PAYMENTS ARISING OUT OF THE SAME CRIM-
10 INAL PROCEEDING, MONEY COLLECTED FROM THAT JUVENILE FOR THE PAY-
11 MENT OF FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR
12 PAROLE SUPERVISION FEES, OR OTHER PAYMENTS SHALL BE ALLOCATED AS
13 PROVIDED IN THIS SECTION.

14 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF A
15 JUVENILE IS SUBJECT TO PAYMENT OF VICTIM PAYMENTS AND ANY COMBI-
16 NATION OF OTHER FINES, COSTS, ASSESSMENTS, PROBATION OR PAROLE
17 SUPERVISION FEES, OR OTHER PAYMENTS, 50% OF EACH PAYMENT COL-
18 LECTED BY THE COURT FROM THAT JUVENILE SHALL BE APPLIED TO PAY-
19 MENT OF VICTIM PAYMENTS, AND THE BALANCE SHALL BE APPLIED TO PAY-
20 MENT OF FINES, COSTS, SUPERVISION FEES, AND OTHER ASSESSMENTS OR
21 PAYMENTS. IF ANY FINES, COSTS, SUPERVISION FEES, OR OTHER
22 ASSESSMENTS OR PAYMENTS REMAIN UNPAID AFTER ALL OF THE VICTIM
23 PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COLLECTED SHALL BE
24 APPLIED TO PAYMENT OF THOSE FINES, COSTS, SUPERVISION FEES, OR
25 OTHER ASSESSMENTS OR PAYMENTS. IF ANY VICTIM PAYMENTS REMAIN
26 UNPAID AFTER ALL OF THE FINES, COSTS, SUPERVISION FEES, OR OTHER
27 ASSESSMENTS OR PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY

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1 COLLECTED SHALL BE APPLIED TOWARD PAYMENT OF THOSE VICTIM
2 PAYMENTS.

3 (3) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF STATE
4 LAW, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF FINES,
5 COSTS, PROBATION AND PAROLE SUPERVISION FEES, AND ASSESSMENTS OR
6 PAYMENTS OTHER THAN VICTIM PAYMENTS SHALL BE APPLIED IN THE FOL-
7 LOWING ORDER OF PRIORITY:

8 (A) PAYMENT OF COSTS.

9 (B) PAYMENT OF FINES.

10 (C) PAYMENT OF PROBATION OR PAROLE SUPERVISION FEES.

11 (D) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS, INCLUDING
12 REIMBURSEMENT TO THIRD PARTIES WHO REIMBURSED A VICTIM FOR HIS OR
13 HER LOSS.

14 (4) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF LOCAL
15 ORDINANCES, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF
16 FINES, COSTS, AND ASSESSMENTS OR PAYMENTS OTHER THAN VICTIM PAY-
17 MENTS SHALL BE APPLIED IN THE FOLLOWING ORDER OF PRIORITY:

18 (A) PAYMENT OF FINES AND COSTS.

19 (B) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS.

20 (5) AS USED IN THIS SECTION, "VICTIM PAYMENT" MEANS RESTITU-
21 TION ORDERED TO BE PAID TO THE VICTIM, TO THE VICTIM'S ESTATE,
22 BUT NOT TO A PERSON WHO REIMBURSED THE VICTIM FOR HIS OR HER
23 LOSS; OR AN ASSESSMENT ORDERED UNDER SECTION 5 OF 1989 PA 196,
24 MCL 780.905.

25 Sec. 46. (1) Upon the request of the victim, the prosecut-
26 ing attorney shall notify the victim of the following:

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1 (a) That the juvenile ~~has~~ filed an appeal of his or her
2 adjudication, CONVICTION, DISPOSITION, OR SENTENCE OR THE
3 PROSECUTING ATTORNEY FILED AN APPEAL.

4 (b) Whether the juvenile has been ordered released on bail
5 or other recognizance pending the disposition of the appeal. If
6 the prosecuting attorney is notified that the juvenile has been
7 ordered released on bail or other recognizance pending disposi-
8 tion of the appeal, the prosecuting attorney shall use any means
9 reasonably calculated to give the victim notice of that order
10 within 24 hours after the prosecuting attorney is notified of the
11 order.

12 (c) The time and place of any appellate court proceedings
13 and any changes in the time or place of those proceedings.

14 (d) The result of the appeal. If the prosecuting attorney
15 is notified that the disposition OR CONVICTION is ~~ordered~~
16 reversed, ~~or~~ THE SENTENCE IS VACATED, the case is remanded for
17 further proceedings OR A NEW TRIAL, OR THE PROSECUTING ATTORNEY'S
18 APPEAL IS DENIED, the prosecuting attorney shall use any means
19 reasonably calculated to give the victim notice of that order
20 within 24 hours after the prosecuting attorney is notified of the
21 order. NOT LATER THAN 48 HOURS BEFORE RELEASING AN OPINION OR
22 ORDER THAT REVERSES A JUVENILE'S ADJUDICATION OR CONVICTION,
23 VACATES AN ORDER OF DISPOSITION OR A SENTENCE, REMANDS A CASE TO
24 THE COURT FOR FURTHER PROCEEDINGS OR A NEW TRIAL, OR DENIES A
25 PROSECUTING ATTORNEY'S APPEAL, THE CLERK OF THE APPELLATE COURT
26 SHALL PROVIDE THE PROSECUTING ATTORNEY OF RECORD WITH A COPY OF
27 THAT ORDER OR OPINION.

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1 (2) If the prosecuting attorney is not successful in
2 notifying the victim of an event described in subsection (1)
3 within the period set forth in that subsection, ~~for~~
4 ~~notification,~~ the prosecuting attorney shall notify the victim
5 of that event as soon as possible by any means reasonably calcu-
6 lated to give the victim prompt actual notice.

7 (3) Upon the request of the victim, the prosecuting attorney
8 shall provide the victim with a brief explanation in plain
9 English of the appeal process, including the possible
10 dispositions.

11 (4) ~~In the event the juvenile's adjudication or order of~~
12 ~~disposition is reversed and~~ IF the case is returned to the
13 ~~trial~~ court for further proceedings OR A NEW TRIAL, the victim
14 ~~shall have~~ HAS the same rights AS previously requested during
15 the proceedings ~~which~~ THAT led to the appeal.

16 Sec. 46a. (1) If a juvenile applies to have A CONVICTION
17 FOR AN ASSAULTIVE CRIME OR SERIOUS MISDEMEANOR OR an adjudication
18 for an offense that if committed by an adult would be an assault-
19 ive crime or a serious misdemeanor set aside under section 18e of
20 chapter XIIIA of THE PROBATE CODE OF 1939, ~~Act No. 288 of the Public~~
21 ~~Acts of 1939, being~~
22 ~~section 712A.18e of the Michigan Compiled Laws, and if the name~~
23 ~~of the victim is known by~~ 1939 PA 288, MCL 712A.18E, AND the
24 prosecuting attorney KNOWS THE VICTIM'S NAME, the prosecuting
25 attorney shall give ~~to~~ the victim of the offense written notice
26 of the application and forward a copy of the application to the
27 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

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1 proceeding under section 18e of chapter XIIA of THE PROBATE CODE OF
1939, ~~Act No. 288 of~~
2 the ~~Public Acts of 1939~~ 1939 PA 288, MCL 712A.18E, concerning
3 that adjudication and make a written or oral statement.

4 (2) As used in this section:

5 (a) "Assaultive crime" means that term as defined in
6 section 9a of chapter X of the code of criminal procedure, ~~Act~~
7 ~~No. 175 of the Public Acts of 1927, being section 770.9a of the~~
8 ~~Michigan Compiled Laws~~ 1927 PA 175, MCL 770.9A.

9 (b) "Serious misdemeanor" means that term as defined in sec-
10 tion 61.

11 Sec. 48. (1) Upon the victim's written request, the court
12 or the family independence agency or county juvenile agency, as
13 applicable, shall make a good faith effort to notify the victim
14 before any of the following occurs:

15 (a) The juvenile is dismissed from court jurisdiction or
16 discharged from commitment to the family independence agency or
17 county juvenile agency.

18 (b) The juvenile is transferred from a ~~secure~~ juvenile
19 facility to ~~a nonsecure~~ ANY OTHER juvenile facility.

20 (c) The juvenile has his or her name legally changed while
21 under the court's jurisdiction or within 2 years after discharge
22 from the court's jurisdiction.

23 (D) THE JUVENILE IS DETAINED FOR HAVING COMMITTED AN ACT
24 WHICH, IF COMMITTED BY AN ADULT, WOULD BE A CRIMINAL VIOLATION.

25 (2) If the court, family independence agency, or county
26 juvenile agency is not successful in notifying the victim before
27 an event described in subsection (1)(a), (b), or (c) occurs, it

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1 shall notify the victim as soon as possible after that event
2 occurs.

3 (3) Upon the victim's written request, the family indepen-
4 dence agency, county juvenile agency, or court shall give to the
5 victim notice of a juvenile's escape from a secure detention or
6 treatment facility. A victim who requests notice of an escape
7 shall be given immediate notice of the escape by any means rea-
8 sonably calculated to give prompt actual notice.

9 (4) UPON THE VICTIM'S WRITTEN REQUEST, THE SHERIFF OR THE
10 DEPARTMENT OF CORRECTIONS SHALL MAIL TO THE VICTIM THE FOLLOWING,
11 AS APPLICABLE, ABOUT A JUVENILE WHO HAS BEEN SENTENCED TO IMPRIS-
12 ONMENT UNDER THE JURISDICTION OF THE SHERIFF OR THE DEPARTMENT
13 FOR THE OFFENSE AGAINST THAT VICTIM:

14 (A) WITHIN 30 DAYS AFTER THE REQUEST, NOTICE OF THE
15 SHERIFF'S CALCULATION OF THE JUVENILE'S EARLIEST RELEASE DATE OR
16 THE DEPARTMENT'S CALCULATION OF THE JUVENILE'S EARLIEST PAROLE
17 ELIGIBILITY, WITH ALL POTENTIAL GOOD TIME OR DISCIPLINARY CREDITS
18 CONSIDERED, IF THE SENTENCE OF IMPRISONMENT EXCEEDS 90 DAYS. THE
19 VICTIM MAY REQUEST 1-TIME ONLY NOTICE OF THE CALCULATION
20 DESCRIBED IN THIS SUBDIVISION.

21 (B) NOTICE OF THE JUVENILE'S TRANSFER OR PENDING TRANSFER TO
22 A MINIMUM SECURITY FACILITY AND THE FACILITY'S ADDRESS.

23 (C) NOTICE OF THE JUVENILE'S RELEASE OR PENDING RELEASE IN A
24 COMMUNITY RESIDENTIAL PROGRAM, UNDER FURLOUGH, OR ANY OTHER
25 TRANSFER TO COMMUNITY STATUS; ANY TRANSFER FROM 1 COMMUNITY RESI-
26 DENTIAL PROGRAM OR ELECTRONIC MONITORING PROGRAM TO ANOTHER; OR

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1 ANY TRANSFER FROM A COMMUNITY RESIDENTIAL PROGRAM OR ELECTRONIC
2 MONITORING PROGRAM TO A STATE CORRECTIONAL FACILITY.

3 (D) NOTICE OF THE ESCAPE OF THE JUVENILE ACCUSED, CONVICTED,
4 OR IMPRISONED FOR COMMITTING AN OFFENSE AGAINST THE VICTIM.

5 (E) NOTICE OF THE VICTIM'S RIGHT TO ADDRESS OR SUBMIT A
6 WRITTEN STATEMENT FOR CONSIDERATION BY A PAROLE BOARD MEMBER OR A
7 MEMBER OF ANY OTHER PANEL HAVING AUTHORITY OVER THE JUVENILE'S
8 RELEASE ON PAROLE.

9 (F) NOTICE OF THE DECISION OF THE PAROLE BOARD, OR ANY OTHER
10 PANEL HAVING AUTHORITY OVER THE JUVENILE'S RELEASE ON PAROLE,
11 AFTER A PAROLE REVIEW.

12 (G) NOTICE OF THE RELEASE OF A JUVENILE 90 DAYS BEFORE THE
13 DATE OF THE JUVENILE'S DISCHARGE FROM PRISON, UNLESS THE NOTICE
14 HAS BEEN OTHERWISE PROVIDED UNDER THIS ARTICLE.

15 (H) NOTICE OF A PUBLIC HEARING UNDER SECTION 44 OF 1953
16 PA 232, MCL 791.244, REGARDING A REPRIEVE, COMMUTATION, OR PARDON
17 OF THE JUVENILE'S SENTENCE BY THE GOVERNOR.

18 (I) NOTICE THAT A REPRIEVE, COMMUTATION, OR PARDON HAS BEEN
19 GRANTED.

20 (J) NOTICE THAT A JUVENILE HAS HAD HIS OR HER NAME LEGALLY
21 CHANGED WHILE ON PAROLE OR WITHIN 2 YEARS AFTER RELEASE FROM
22 PAROLE.

23 (5) A VICTIM'S ADDRESS AND TELEPHONE NUMBER MAINTAINED BY A
24 SHERIFF OR THE DEPARTMENT OF CORRECTIONS UPON A REQUEST FOR
25 NOTICE UNDER SUBSECTION (4) IS EXEMPT FROM DISCLOSURE UNDER THE
26 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

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1 (6) AS PROVIDED IN SUBSECTION (7) OR (8), A VICTIM WHO
2 REQUESTS NOTICE OF THE ESCAPE AND THE PROSECUTING ATTORNEY WHO
3 FILED THE PETITION ALLEGING THE OFFENSE FOR WHICH THE JUVENILE IS
4 ACCUSED, DETAINED, OR UNDER SENTENCE SHALL BE GIVEN IMMEDIATE
5 NOTICE OF THE JUVENILE'S ESCAPE. THE NOTICE SHALL BE GIVEN BY
6 ANY MEANS REASONABLY CALCULATED TO GIVE PROMPT ACTUAL NOTICE.

7 (7) IF THE ESCAPE OCCURS BEFORE THE SENTENCE IS EXECUTED OR
8 BEFORE THE JUVENILE IS DELIVERED TO THE FAMILY INDEPENDENCE
9 AGENCY, COUNTY JUVENILE AGENCY, SHERIFF, OR THE DEPARTMENT OF
10 CORRECTIONS, THE PERSON IN CHARGE OF THE AGENCY IN CHARGE OF THE
11 JUVENILE'S DETENTION SHALL GIVE NOTICE OF THE ESCAPE TO THE PROS-
12 ECUTING ATTORNEY, WHO SHALL THEN GIVE NOTICE OF THE ESCAPE TO A
13 VICTIM WHO REQUESTED NOTICE.

14 (8) IF THE JUVENILE IS CONFINED UNDER SENTENCE, THE NOTICE
15 OF ESCAPE SHALL BE GIVEN TO THE VICTIM AND THE PROSECUTING ATTOR-
16 NEY BY THE CHIEF ADMINISTRATOR OF THE PLACE IN WHICH THE JUVENILE
17 IS CONFINED.

18 (9) ~~(4)~~ Upon the victim's request, the prosecuting attor-
19 ney shall give the victim notice of a review hearing conducted
20 under section 18 of chapter XIIIA of THE PROBATE CODE OF 1939, 1939
21 PA 288, MCL 712A.18.
22 The victim has the right to make a statement at the hearing or
23 submit a written statement for use at the hearing, or both.

24 Sec. 61. (1) ~~As~~ EXCEPT AS OTHERWISE DEFINED IN THIS ARTI-
25 CLE, AS used in this article:

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

27 (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~~

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1 ~~the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.81, assault and
2 battery, INCLUDING DOMESTIC VIOLENCE.

3 (ii) A violation of section 81a of ~~Act No. 328 of the~~
4 ~~Public Acts of 1931, being section 750.81a of the Michigan~~
5 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81A,
6 assault; infliction of serious injury, INCLUDING AGGRAVATED
7 DOMESTIC VIOLENCE.

8 (iii) A violation of section 115 of ~~Act No. 328 of the~~
9 ~~Public Acts of 1931, being section 750.115 of the Michigan~~
10 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.115,
11 breaking and entering or illegal entry.

12 (iv) A violation of section ~~136b(5)~~ 136B(6) of ~~Act~~
13 ~~No. 328 of the Public Acts of 1931, being section 750.136b of the~~
14 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328,
15 MCL 750.136B, child abuse in the fourth degree.

16 (v) A violation of section 145a of ~~Act No. 328 of the~~
17 ~~Public Acts of 1931, being section 750.145a of the Michigan~~
18 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328,
19 MCL 750.145A, enticing a child for immoral purposes.

20 (vi) A violation of section 234 of ~~Act No. 328 of the~~
21 ~~Public Acts of 1931, being section 750.234 of the Michigan~~
22 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.234,
23 discharge of a firearm intentionally aimed at a person.

24 (vii) A violation of section 235 of ~~Act No. 328 of the~~
25 ~~Public Acts of 1931, being section 750.235 of the Michigan~~
26 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.235,
27 discharge of an intentionally aimed firearm resulting in injury.

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1 (viii) A violation of section 335a of ~~Act No. 328 of the~~
2 ~~Public Acts of 1931, being section 750.335a of the Michigan~~
3 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328,
4 MCL 750.335A, indecent exposure.

5 (ix) A violation of section 617a of the Michigan vehicle
6 code, ~~Act No. 300 of the Public Acts of 1949, being section~~
7 ~~257.617a of the Michigan Compiled Laws~~ 1949 PA 300,
8 MCL 257.617A, leaving the scene of a personal injury accident.

9 (x) A violation of section 625 of ~~Act No. 300 of the Public~~
10 ~~Acts of 1949, being section 257.625 of the Michigan Compiled~~
11 ~~Laws~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.625, oper-
12 ating a vehicle while under the influence of or impaired by
13 intoxicating liquor or a controlled substance, or with an unlaw-
14 ful blood alcohol content, if the violation involves an accident
15 resulting in damage to another individual's property or physical
16 injury or death to another individual.

17 (xi) Selling or furnishing alcoholic liquor to an individual
18 less than 21 years of age in violation of section ~~33~~ 701 of the
19 Michigan liquor control ~~act, Act No. 8 of the Extra Session of~~
20 ~~the Public Acts of 1933, being section 436.33 of the Michigan~~
21 ~~Compiled Laws~~ CODE OF 1998, 1998 PA 58, MCL 436.1701, if the
22 violation results in physical injury or death to any individual.

23 (xii) A violation of section 411h of ~~Act No. 328 of the~~
24 ~~Public Acts of 1931, being section 750.411h of the Michigan~~
25 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328,
26 MCL 750.411H, stalking.

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1 (*xiii*) A violation of section ~~80176 of part 801 (marine~~
2 ~~safety)~~ 80176(1) OR (3) of the natural resources and
3 environmental protection act, ~~Act No. 451 of the Public Acts of~~
4 ~~1994, being section 324.80176 of the Michigan Compiled Laws~~ 1994
5 PA 451, MCL 324.80176, operating a vessel while under the influ-
6 ence of or impaired by intoxicating liquor or a controlled sub-
7 stance, or with an unlawful blood alcohol content, if the viola-
8 tion involves an accident resulting in damage to another
9 individual's property or physical injury or death to any
10 individual.

11 (*xiv*) A violation of a local ordinance substantially corre-
12 sponding to a violation enumerated in subparagraphs (*i*) to
13 (*xiii*).

14 (*xv*) A violation charged as a crime or serious misdemeanor
15 ENUMERATED IN SUBPARAGRAPHS (*i*) TO (*xiv*) but subsequently reduced
16 to or pleaded to as a misdemeanor. As used in this subparagraph,
17 "crime" means that term as defined in section 2.

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

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

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

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

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

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

13 (i) An individual who suffers direct or threatened physical,
14 financial, or emotional harm as a result of the commission of a
15 serious misdemeanor, except as provided in subparagraph (ii),
16 (iii), or (iv).

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

19 (A) The spouse of the deceased victim.

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

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

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

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

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

5 (iii) A parent, guardian, or custodian of a victim who is
6 less than 18 years of age AND WHO IS NEITHER THE DEFENDANT NOR
7 INCARCERATED, if the parent, guardian, or custodian so chooses.

8 (iv) A parent, guardian, or custodian of a victim who is so
9 mentally incapacitated that he or she cannot meaningfully under-
10 stand or participate in the legal process IF HE OR SHE IS NOT THE
11 DEFENDANT AND IS NOT INCARCERATED.

12 (2) If a victim as defined in subsection (1)(g)(i) is physi-
13 cally or emotionally unable to exercise the privileges and rights
14 under this article, the victim may designate his or her spouse,
15 ~~or a~~ child 18 years of age or older, parent, sibling, or grand-
16 parent ~~of the victim~~ OR ANY OTHER PERSON 18 YEARS OF AGE OR
17 OLDER WHO IS NEITHER THE DEFENDANT NOR INCARCERATED to act in HIS
18 OR HER place ~~of the victim during the duration of~~ WHILE the
19 physical or emotional disability CONTINUES. The victim shall pro-
20 vide the prosecuting attorney with the name of the person who is
21 to act in place of the victim. During the physical or emotional
22 disability, notices to be provided under this article to the
23 victim shall continue to be sent only to the victim.

24 (3) An individual who is charged with a serious misdemeanor,
25 ~~or~~ a crime as defined in section 2, OR AN OFFENSE AS DEFINED IN
26 SECTION 31 arising out of the same transaction from which the
27 charge against the defendant arose is not eligible to exercise

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1 the privileges and rights established for victims under this
2 article.

3 (4) AN INDIVIDUAL WHO IS INCARCERATED IS NOT ELIGIBLE TO
4 EXERCISE THE PRIVILEGES AND RIGHTS ESTABLISHED FOR VICTIMS UNDER
5 THIS ARTICLE EXCEPT THAT HE OR SHE MAY SUBMIT A WRITTEN STATEMENT
6 TO THE COURT FOR CONSIDERATION AT SENTENCING.

7 Sec. 63. (1) Within 24 hours after the initial contact
8 between the victim of a reported serious misdemeanor and the law
9 enforcement agency having the responsibility for investigating
10 that serious misdemeanor, that agency shall give to the victim
11 the following information in writing:

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

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

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

19 (d) The following ~~statement~~ STATEMENTS:

20 "IF YOU WOULD LIKE TO BE NOTIFIED OF AN ARREST IN YOUR CASE
21 OR THE RELEASE OF THE PERSON ARRESTED, OR BOTH, YOU SHOULD CALL
22 (IDENTIFY LAW ENFORCEMENT AGENCY AND TELEPHONE NUMBER) AND INFORM
23 THEM."

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

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1 (2) IF THE CASE AGAINST THE DEFENDANT IS BROUGHT UNDER A
2 LOCAL ORDINANCE, THE LAW ENFORCEMENT AGENCY HAVING RESPONSIBILITY
3 FOR INVESTIGATING THE SERIOUS MISDEMEANOR SHALL GIVE TO THE
4 VICTIM THE NAME AND BUSINESS ADDRESS OF THE LOCAL PROSECUTING
5 ATTORNEY FOR THE POLITICAL SUBDIVISION RESPONSIBLE FOR PROSECUT-
6 ING THE CASE ALONG WITH THE FOLLOWING STATEMENT:

7 "THE DEFENDANT IN YOUR CASE WILL BE PROSECUTED UNDER A LOCAL
8 ORDINANCE, RATHER THAN A STATE STATUTE. NONETHELESS, YOU HAVE
9 ALL THE RIGHTS AND PRIVILEGES AFFORDED TO VICTIMS UNDER THE STATE
10 CONSTITUTION AND THE STATE CRIME VICTIM'S RIGHTS ACT."

11 Sec. 65. (1) Not later than 72 hours after the arrest of
12 the defendant for a serious misdemeanor, the law enforcement
13 agency having responsibility for investigating the serious misde-
14 meanor shall give to the victim notice of the availability of
15 pretrial release for the defendant, the phone number of the sher-
16 iff, and notice that the victim may contact the sheriff to deter-
17 mine whether the defendant has been released from custody. THE
18 LAW ENFORCEMENT AGENCY HAVING RESPONSIBILITY FOR INVESTIGATING
19 THE CRIME SHALL PROMPTLY NOTIFY THE VICTIM OF THE ARREST OR PRE-
20 TRIAL RELEASE OF THE DEFENDANT, OR BOTH, IF THE VICTIM REQUESTS
21 OR HAS REQUESTED THAT INFORMATION. IF THE DEFENDANT IS RELEASED
22 FROM CUSTODY BY THE SHERIFF, THE SHERIFF SHALL NOTIFY THE LAW
23 ENFORCEMENT AGENCY HAVING RESPONSIBILITY FOR INVESTIGATING THE
24 CRIME.

25 (2) If the victim submits an affidavit asserting acts or
26 threats of physical violence or intimidation by the defendant or
27 at the defendant's direction against the victim or the victim's

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1 immediate family, the prosecuting attorney, based on the victim's
2 affidavit, may move that the bond or personal recognizance of a
3 defendant be revoked.

4 Sec. 66. (1) If a plea of guilty or nolo contendere is
5 accepted by the court at the time of the arraignment of the
6 defendant for a serious misdemeanor, the court shall notify the
7 prosecuting attorney of the plea and the date of sentencing
8 within 48 hours after the arraignment. If no guilty or nolo con-
9 tendere plea is accepted at the arraignment and further proceed-
10 ings will be scheduled, the court shall so notify the prosecuting
11 attorney within 48 hours after the arraignment. A notice to the
12 prosecuting attorney under this subsection shall be on a separate
13 form and shall include the name, address, and telephone number of
14 the victim. The notice shall not be a matter of public record.
15 Within 48 hours after receiving this notice, the prosecuting
16 attorney shall give to each victim a written notice in plain
17 English of each of the following:

18 (a) A brief statement of the procedural steps in the pro-
19 cessing of a misdemeanor case, including pretrial conferences.

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

22 (c) A CONVENIENT MEANS FOR THE VICTIM TO NOTIFY THE PROSE-
23 CUTING ATTORNEY THAT THE VICTIM CHOOSES TO EXERCISE HIS OR HER
24 RIGHTS UNDER THIS ARTICLE.

25 (d) ~~(c)~~ Details and eligibility requirements FOR COMPENSA-
26 TION FROM THE CRIME VICTIMS SERVICES COMMISSION under ~~Act~~
27 ~~No. 223 of the Public Acts of 1976, being sections 18.351 to~~

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1 ~~18.368 of the Michigan Compiled Laws~~ 1976 PA 223, MCL 18.351 TO
2 18.368.

3 (E) ~~(d)~~ Suggested procedures if the victim is subjected to
4 threats or intimidation.

5 (F) ~~(e)~~ The person to contact for further information.

6 (2) If requested by the victim, the prosecuting attorney
7 shall give to the victim notice of any scheduled court proceed-
8 ings and notice of any changes in that schedule.

9 (3) If the defendant has not already entered a plea of
10 guilty or nolo contendere at the arraignment, the prosecuting
11 attorney shall offer the victim the opportunity to consult with
12 the prosecuting attorney to obtain the views of the victim about
13 the disposition of the serious misdemeanor, including the
14 victim's views about dismissal, plea or sentence negotiations,
15 and pretrial diversion programs before finalizing any negotiation
16 that may result in a dismissal, plea or sentence bargain, or pre-
17 trial diversion.

18 (4) If the case against the defendant is dismissed at any
19 time, the prosecuting attorney shall notify the victim of the
20 dismissal within 48 hours.

21 (5) A victim who receives a notice under subsection (1) or
22 (2) and who chooses to receive any ~~other~~ notice or ~~notices~~
23 EXERCISE ANY RIGHT under this article shall keep the following
24 persons informed of the victim's current address and telephone
25 number:

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

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1 (b) The sheriff, if the defendant is imprisoned for more
2 than 92 days.

3 Sec. 68. (1) Based upon the victim's reasonable apprehen-
4 sion of acts or threats of physical violence or intimidation by
5 the defendant or at defendant's direction against the victim or
6 the victim's immediate family, the prosecuting attorney may move
7 that the victim or any other witness not be compelled to testify
8 at pretrial proceedings or at trial for purposes of identifying
9 the victim as to the victim's address, place of employment, or
10 other personal identification without the victim's consent. A
11 hearing on the motion shall be in camera.

12 (2) PURSUANT TO SECTION 24 OF ARTICLE I OF THE STATE CONSTI-
13 TUTION OF 1963, GUARANTEEING TO CRIME VICTIMS THE RIGHT TO BE
14 TREATED WITH RESPECT FOR THEIR DIGNITY AND PRIVACY, ALL OF THE
15 FOLLOWING INFORMATION AND VISUAL REPRESENTATIONS OF A VICTIM ARE
16 EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976
17 PA 442, MCL 15.231 TO 15.246:

18 (A) THE NAME, HOME ADDRESS, HOME TELEPHONE NUMBER, WORK
19 ADDRESS, AND WORK TELEPHONE NUMBER OF THE VICTIM.

20 (B) A PICTURE, PHOTOGRAPH, DRAWING, OR OTHER VISUAL REPRE-
21 SENTATION, INCLUDING ANY FILM, VIDEOTAPE, OR DIGITALLY STORED
22 IMAGE OF THE VICTIM.

23 Sec. 71. The victim has the right to be present throughout
24 the entire trial of the defendant, unless the victim is going to be
25 called as a witness. If the victim is going to be called as a
26 witness, the court may, for good cause shown, order the victim to
27 be sequestered until the victim first testifies. THE VICTIM SHALL

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1 NOT BE SEQUESTERED AFTER HE OR SHE FIRST TESTIFIES.

2

3 Sec. 74. If a presentence investigation report concerning
4 the defendant is prepared, the victim has the right to submit or
5 make a written or oral impact statement to the probation officer
6 for use by that officer in preparing the report pursuant to sec-
7 tion 14 of chapter XI of the code of criminal procedure, ~~Act~~
8 ~~No. 175 of the Public Acts of 1927, being section 771.14 of the~~
9 ~~Michigan Compiled Laws~~ 1927 PA 175, MCL 771.14. A victim's
10 written statement shall, upon the victim's request, be included
11 in the presentence investigation report.

12 Sec. 75. If no presentence report is prepared, the court
13 shall notify the prosecuting attorney of the date and time of
14 sentencing at least 10 days prior to the sentencing. The victim
15 ~~shall have~~ HAS the right to submit a written impact statement
16 and ~~shall have~~ HAS the right to appear and make an oral impact
17 statement at the sentencing of the defendant. IF THE VICTIM IS
18 PHYSICALLY OR EMOTIONALLY UNABLE TO MAKE THE ORAL IMPACT STATE-
19 MENT, THE VICTIM MAY DESIGNATE ANY OTHER PERSON 18 YEARS OF AGE
20 OR OLDER WHO IS NEITHER THE DEFENDANT NOR A PERSON SERVING A SEN-
21 TENCE TO MAKE THE STATEMENT ON HIS OR HER BEHALF. THE OTHER
22 PERSON NEED NOT BE AN ATTORNEY. The court shall consider the
23 victim's statement in imposing sentence on the defendant.

24 Sec. 76. (1) For purposes of this section only:

25 (a) "Misdemeanor" means a violation of a law of this state
26 or a local ordinance that is punishable by imprisonment for not

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1 more than 1 year or a fine that is not a civil fine, but that is
2 not a felony.

3 (b) "Victim" means an individual who suffers direct or
4 threatened physical, financial, or emotional harm as a result of
5 the commission of a misdemeanor. For purposes of subsections
6 (2), (3), (6), (8), (9), and (13), victim includes a sole propri-
7 etorship, partnership, corporation, association, governmental
8 entity, or any other legal entity that suffers direct physical or
9 financial harm as a result of a misdemeanor.

10 (2) Except as provided in subsection (8), when sentencing a
11 defendant convicted of a misdemeanor, the court shall order, in
12 addition to or in lieu of any other penalty authorized by law or
13 in addition to any other penalty required by law, that the
14 defendant make full restitution to any victim of the defendant's
15 course of conduct that gives rise to the conviction or to the
16 victim's estate.

17 (3) If a misdemeanor results in damage to or loss or
18 destruction of property of a victim of the misdemeanor or results
19 in the seizure or impoundment of property of a victim of the mis-
20 demeanor, the order of restitution may require that the defendant
21 do 1 or more of the following, as applicable:

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

24 (b) If return of the property under subdivision (a) is
25 impossible, impractical, or inadequate, pay an amount equal to
26 the greater of subparagraph (i) or (ii), less the value,

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1 determined as of the date the property is returned, of that
2 property or any part of the property that is returned:

3 (i) The value of the property on the date of the damage,
4 loss, or destruction.

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

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

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

10 (a) Pay an amount equal to the cost of ~~actual~~ medical and
11 related professional services and devices ACTUALLY INCURRED AND
12 REASONABLY EXPECTED TO BE INCURRED relating to physical and psy-
13 chological care.

14 (b) Pay an amount equal to the cost of ~~actual~~ physical and
15 occupational therapy and rehabilitation ACTUALLY INCURRED AND
16 REASONABLY EXPECTED TO BE INCURRED.

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

20 (d) Pay an amount equal to the cost of psychological and
21 medical treatment for members of the victim's family ~~that has~~
22 ~~been~~ ACTUALLY incurred AND REASONABLY EXPECTED TO BE INCURRED as
23 a result of the misdemeanor.

24 (e) Pay an amount equal to the costs of ~~actual~~ homemaking
25 and child care expenses ACTUALLY incurred AND REASONABLY EXPECTED
26 TO BE INCURRED as a result of the misdemeanor OR, IF HOME MAKING
27 OR CHILD CARE IS PROVIDED WITHOUT COMPENSATION BY A RELATIVE,

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1 FRIEND, OR ANY OTHER PERSON, AN AMOUNT EQUAL TO THE COSTS THAT
2 WOULD REASONABLY BE INCURRED AS A RESULT OF THE MISDEMEANOR FOR
3 THAT HOMEMAKING AND CHILD CARE, BASED ON THE RATES IN THE AREA
4 FOR COMPARABLE SERVICES.

5 (F) ~~-(5) If a misdemeanor resulting in bodily injury also~~
6 ~~results in the death of a victim, the order of restitution may~~
7 ~~require that the defendant pay~~ PAY an amount equal to the cost
8 of actual funeral and related services.

9 (G) IF THE DECEASED VICTIM COULD BE CLAIMED AS A DEPENDENT
10 BY HIS OR HER PARENT OR GUARDIAN ON THE PARENT'S OR GUARDIAN'S
11 FEDERAL, STATE, OR LOCAL INCOME TAX RETURNS, PAY AN AMOUNT EQUAL
12 TO THE LOSS OF THE TAX DEDUCTION OR TAX CREDIT. THE AMOUNT OF
13 REIMBURSEMENT SHALL BE ESTIMATED FOR EACH YEAR THE VICTIM COULD
14 REASONABLY BE CLAIMED AS A DEPENDENT.

15 (5) IF A CRIME RESULTING IN BODILY INJURY ALSO RESULTS IN
16 THE DEATH OF A VICTIM OR SERIOUS IMPAIRMENT OF A BODY FUNCTION OF
17 A VICTIM, THE COURT MAY ORDER UP TO 3 TIMES THE AMOUNT OF RESTI-
18 TUTION OTHERWISE ALLOWED UNDER THIS SECTION. AS USED IN THIS
19 SUBSECTION, "SERIOUS IMPAIRMENT OF A BODY FUNCTION OF A VICTIM"
20 INCLUDES, BUT IS NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

- 21 (A) LOSS OF A LIMB OR USE OF A LIMB.
- 22 (B) LOSS OF A HAND OR FOOT OR USE OF A HAND OR FOOT.
- 23 (C) LOSS OF AN EYE OR USE OF AN EYE OR EAR.
- 24 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.
- 25 (E) SERIOUS VISIBLE DISFIGUREMENT.
- 26 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.

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1 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.

2 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.

3 (I) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.

4 (J) LOSS OF A BODY ORGAN.

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

8 (7) If the victim is deceased, the court shall order that
9 the restitution be made to the victim's estate.

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

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1 ~~to restitution under this subsection for compensating the victim~~
2 ~~or the victim's estate cannot or refuses to be reimbursed for~~
3 ~~that compensation, the restitution paid for that entity shall be~~
4 ~~deposited by the state treasurer in the crime victim's rights~~
5 ~~fund created under section 4 of 1989 PA 196, MCL 780.904, or its~~
6 ~~successor fund.~~

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

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

18 (11) If the defendant is placed on probation or the court
19 imposes a conditional sentence as provided in section 3 of chap-
20 ter IX of the code of criminal procedure, 1927 PA 175, MCL 769.3,
21 any restitution ordered under this section shall be a condition
22 of that probation or sentence. The court may revoke probation or
23 impose imprisonment under the conditional sentence if the
24 defendant fails to comply with the order and if the defendant has
25 not made a good faith effort to comply with the order. In deter-
26 mining whether to revoke probation or impose imprisonment, the
27 court shall consider the defendant's employment status, earning

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1 ability, and financial resources, the willfulness of the
2 defendant's failure to pay, and any other special circumstances
3 that may have a bearing on the defendant's ability to pay.

4 (12) A defendant who is required to pay restitution and who
5 is not in willful default of the payment of the restitution may
6 at any time petition the sentencing judge or his or her successor
7 to modify the method of payment. If the court determines that
8 payment under the order will impose a manifest hardship on the
9 defendant or his or her immediate family, AND IF THE COURT ALSO
10 DETERMINES THAT MODIFYING THE METHOD OF PAYMENT WILL NOT IMPOSE A
11 MANIFEST HARDSHIP ON THE VICTIM, the court may modify the method
12 of payment.

13 (13) An order of restitution entered under this section
14 remains effective until it is satisfied in full. An order of
15 restitution is a judgment and lien against all property of the
16 defendant for the amount specified in the order of restitution.
17 The lien may be recorded as provided by law. An order of resti-
18 tution may be enforced BY THE COURT SUA SPONTE , OR by the
19 prosecuting attorney, a victim, a victim's estate, or any other
20 person or entity named in the order to receive restitution in the
21 same manner as a judgment in a civil action or a lien.

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

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1 (15) In each case in which payment of restitution is ordered
2 as a condition of probation, the COURT MAY ORDER ANY EMPLOYED
3 DEFENDANT TO EXECUTE A WAGE ASSIGNMENT TO PAY THE RESTITUTION.
4 THE probation officer assigned to the case shall review the case
5 not less than twice yearly to ensure that restitution is being
6 paid as ordered. IF THE RESTITUTION WAS ORDERED TO BE MADE
7 WITHIN A SPECIFIC PERIOD OF TIME, THE PROBATION OFFICER ASSIGNED
8 TO THE CASE SHALL REVIEW THE CASE AT THE END OF THE SPECIFIC
9 PERIOD OF TIME TO DETERMINE IF THE RESTITUTION HAS BEEN PAID IN
10 FULL. The final review shall be conducted not less than 60 days
11 before the probationary period expires. If the probation officer
12 determines AT ANY REVIEW that restitution is not being paid as
13 ordered, the probation officer shall file a written report of the
14 violation with the court on a form prescribed by the state court
15 administrative office OR SHALL PETITION THE COURT FOR A PROBATION
VIOLATION. The report OR PETITION shall include a statement of
16 the amount of the arrearage and any reasons for the arrearage
17 known by the probation officer. The probation officer shall
18 immediately provide a copy of the report OR PETITION to the
prosecuting
19 attorney. ~~If a motion is filed or other proceedings are initi-~~
20 ~~ated to enforce payment of restitution and~~
21 IF the court
22 determines that restitution is not being paid or has not been
23 paid as ordered by the court, the court shall promptly take
24 action necessary to compel compliance.

25 (16) If the court determines that a defendant who is ordered
26 to pay restitution under this section is remanded to the
27 jurisdiction of the department of corrections, the court shall

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1 provide a copy of the order of restitution to the department of
2 corrections when the court determines that the defendant is
3 remanded to the department's jurisdiction.

4 (17) THE COURT SHALL NOT IMPOSE A FEE ON A VICTIM, VICTIM'S
5 ESTATE, OR PROSECUTING ATTORNEY FOR ENFORCING AN ORDER OF
6 RESTITUTION.

7 (18) IF A PERSON OR ENTITY ENTITLED TO RESTITUTION CANNOT BE
8 LOCATED OR REFUSES TO CLAIM THAT RESTITUTION WITHIN 2 YEARS AFTER
9 THE DATE ON WHICH HE OR SHE COULD HAVE CLAIMED THE RESTITUTION,
10 THE RESTITUTION PAID TO THAT PERSON OR ENTITY SHALL BE DEPOSITED
11 IN THE CRIME VICTIM'S RIGHTS FUND CREATED UNDER SECTION 4 OF 1989
12 PA 196, MCL 780.904, OR ITS SUCCESSOR FUND. HOWEVER, A PERSON OR
13 ENTITY ENTITLED TO THAT RESTITUTION MAY CLAIM THAT RESTITUTION
14 ANY TIME BY APPLYING TO THE COURT THAT ORIGINALLY ORDERED AND
15 COLLECTED IT. THE COURT SHALL NOTIFY THE CRIME VICTIM SERVICES
16 COMMISSION OF THE APPLICATION AND THE COMMISSION SHALL APPROVE A
17 REDUCTION IN THE COURT'S REVENUE TRANSMITTAL TO THE CRIME VICTIM
18 RIGHTS FUND EQUAL TO THE RESTITUTION OWED TO THE PERSON OR
19 ENTITY. THE COURT SHALL USE THE REDUCTION TO REIMBURSE THAT RES-
20 TITUTION TO THE PERSON OR ENTITY.

21 SEC. 76A. (1) IF A PERSON IS SUBJECT TO ANY COMBINATION OF
22 FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
23 SUPERVISION FEES, OR OTHER PAYMENTS ARISING OUT OF THE SAME CRIM-
24 INAL PROCEEDING, MONEY COLLECTED FROM THAT PERSON FOR THE PAYMENT
25 OF FINES, COSTS, RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE
26 SUPERVISION FEES, OR OTHER PAYMENTS SHALL BE ALLOCATED AS
27 PROVIDED IN THIS SECTION.

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1 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IF A
2 PERSON IS SUBJECT TO PAYMENT OF VICTIM PAYMENTS AND ANY COMBINA-
3 TION OF OTHER FINES, COSTS, ASSESSMENTS, PROBATION OR PAROLE
4 SUPERVISION FEES, OR OTHER PAYMENTS, 50% OF EACH PAYMENT COL-
5 LECTED BY THE COURT FROM THAT PERSON SHALL BE APPLIED TO PAYMENT
6 OF VICTIM PAYMENTS, AND THE BALANCE SHALL BE APPLIED TO PAYMENT
7 OF FINES, COSTS, SUPERVISION FEES, AND OTHER ASSESSMENTS OR
8 PAYMENTS. IF ANY FINES, COSTS, SUPERVISION FEES, OR OTHER
9 ASSESSMENTS OR PAYMENTS REMAIN UNPAID AFTER ALL OF THE VICTIM
10 PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COLLECTED SHALL BE
11 APPLIED TO PAYMENT OF THOSE FINES, COSTS, SUPERVISION FEES, OR
12 OTHER ASSESSMENTS OR PAYMENTS. IF ANY VICTIM PAYMENTS REMAIN
13 UNPAID AFTER ALL OF THE FINES, COSTS, SUPERVISION FEES, OR OTHER
14 ASSESSMENTS OR PAYMENTS HAVE BEEN PAID, ANY ADDITIONAL MONEY COL-
15 LECTED SHALL BE APPLIED TOWARD PAYMENT OF THOSE VICTIM PAYMENTS.

16 (3) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF STATE
17 LAW, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF FINES,
18 COSTS, PROBATION AND PAROLE SUPERVISION FEES, AND ASSESSMENTS OR
19 PAYMENTS OTHER THAN VICTIM PAYMENTS SHALL BE APPLIED IN THE FOL-
20 LOWING ORDER OF PRIORITY:

21 (A) PAYMENT OF COSTS.

22 (B) PAYMENT OF FINES.

23 (C) PAYMENT OF PROBATION OR PAROLE SUPERVISION FEES.

24 (D) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS, INCLUDING
25 REIMBURSEMENT TO THIRD PARTIES WHO REIMBURSED A VICTIM FOR HIS OR
26 HER LOSS.

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1 (4) IN CASES INVOLVING PROSECUTIONS FOR VIOLATIONS OF LOCAL
2 ORDINANCES, MONEY ALLOCATED UNDER SUBSECTION (2) FOR PAYMENT OF
3 FINES, COSTS, AND ASSESSMENTS OR PAYMENTS OTHER THAN VICTIM PAY-
4 MENTS SHALL BE APPLIED IN THE FOLLOWING ORDER OF PRIORITY:

5 (A) PAYMENT OF FINES AND COSTS.

6 (B) PAYMENT OF ASSESSMENTS AND OTHER PAYMENTS.

7 (5) AS USED IN THIS SECTION, "VICTIM PAYMENT" MEANS RESTITU-
8 TION ORDERED TO BE PAID TO THE VICTIM, TO THE VICTIM'S ESTATE,
9 BUT NOT TO A PERSON WHO REIMBURSED THE VICTIM FOR HIS OR HER
10 LOSS; OR AN ASSESSMENT ORDERED UNDER SECTION 5 OF 1989 PA 196,
11 MCL 780.905.

12 Sec. 78. (1) Upon the request of the victim, the prosecut-
13 ing attorney shall notify the victim of the following:

14 (a) That the defendant ~~has~~ filed an appeal of his or her
15 conviction OR SENTENCE OR THAT THE PROSECUTING ATTORNEY FILED AN
16 APPEAL.

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

25 (c) The time and place of any appellate court proceedings
26 and any changes in the time or place of those proceedings.

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1 (d) The result of the appeal. If the prosecuting attorney
2 is notified that the conviction is ordered reversed, ~~or~~ THE
3 SENTENCE IS VACATED, the case is remanded for further proceedings
4 OR A NEW TRIAL, OR THE PROSECUTING ATTORNEY'S APPEAL IS DENIED,
5 the prosecuting attorney shall use any means reasonably calcu-
6 lated to give the victim notice of that order within 24 hours
7 after the prosecuting attorney is notified of the order. NOT
8 LATER THAN 48 HOURS BEFORE RELEASING AN OPINION OR ORDER THAT
9 REVERSES A CONVICTION, VACATES A SENTENCE, REMANDS A CASE TO THE
10 TRIAL COURT FOR FURTHER PROCEEDINGS OR A NEW TRIAL, OR DENIES A
11 PROSECUTING ATTORNEY'S APPEAL, THE CLERK OF THE APPELLATE COURT
12 SHALL PROVIDE THE PROSECUTING ATTORNEY OF RECORD WITH A COPY OF
13 THAT ORDER OR OPINION.

14 (2) If the prosecuting attorney is not successful in notify-
15 ing the victim of an event described in subsection (1) within the
16 period set forth in that subsection, ~~for notification,~~ the
17 prosecuting attorney shall notify the victim of that event as
18 soon as possible by any means reasonably calculated to give the
19 victim prompt actual notice.

20 (3) Upon the request of the victim, the prosecuting attorney
21 shall provide the victim with a brief explanation in plain
22 English of the appeal process, including the possible
23 dispositions.

24 (4) If ~~the defendant's conviction is reversed and~~ the case
25 is returned to the trial court for further proceedings OR A NEW
26 TRIAL, the victim ~~shall have~~ HAS the same rights AS previously
27 requested during the proceedings ~~which~~ THAT led to the appeal.

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

6 (a) Within 30 days after the request, notice of the
7 sheriff's calculation of the earliest release date of the prison-
8 er, with all potential good time or disciplinary credits consid-
9 ered if the sentence of imprisonment exceeds 90 days. The victim
10 may request 1-time only notice of the calculation described in
11 this subdivision.

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

15 (B) ~~(c)~~ Notice that a prisoner has had his or her name
16 legally changed while imprisoned in the county jail or within 2
17 years of release from the county jail.

18 (C) NOTICE THAT THE PRISONER HAS BEEN PLACED ON DAY PAROLE
19 OR WORK RELEASE.

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

25

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- 1 [REDACTED]
- 2 [REDACTED]
- 3 [REDACTED]
- 4 [REDACTED]
- 5 [REDACTED]
- 6 [REDACTED]