



HOUSE BILL No. 6116

November 9, 2000, Introduced by Reps. Baird, DeHart, Garza, Minore, Schermesser, Dennis, Brater, Jamnick, Richner and Woodward and referred to the Committee on Criminal Law and Corrections.

A bill to amend 1985 PA 87, entitled "Crime victim's rights act," by amending sections 2, 15, 31, 43, 61, and 75 (MCL 780.752, 780.765, 780.781, 780.793, 780.811, and 780.825), sections 2 and 31 as amended by 1998 PA 523, section 43 as amended by 1993 PA 341, section 61 as amended by 1996 PA 82, and section 75 as added by 1988 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. (1) As used in this article:
- 2 (a) "County juvenile agency" means that term as defined in
- 3 section 2 of the county juvenile agency act, 1998 PA 518,
- 4 MCL 45.622.
- 5 (b) "Crime" means a violation of a penal law of this state
- 6 for which the offender, upon conviction, may be punished by

1 imprisonment for more than 1 year or an offense expressly
2 designated by law as a felony.

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

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

9 (e) "Juvenile" means a person within the jurisdiction of the
10 circuit court under section 606 of the revised judicature act of
11 1961, 1961 PA 236, MCL 600.606.

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

18 (G) "NEIGHBORHOOD ASSOCIATION" MEANS EITHER OF THE
19 FOLLOWING:

20 (i) A NEIGHBORHOOD ORGANIZATION AS THAT TERM IS DEFINED IN
21 SECTION 5 OF THE NEIGHBORHOOD ASSISTANCE AND PARTICIPATION ACT,
22 1980 PA 56, MCL 125.805.

23 (ii) A NONGOVERNMENTAL ASSOCIATION OR ORGANIZATION THAT
24 SERVES AN AREA WITH GEOGRAPHICALLY DEFINABLE BOUNDARIES AND THAT
25 HAS AS ITS PRIMARY PURPOSE THE REDUCTION OF CRIME IN THAT AREA.

26 (H) ~~(g)~~ "Person" means an individual, organization,
27 partnership, corporation, or governmental entity.

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

5 (J) ~~(i)~~ "Prosecuting attorney" means the prosecuting
6 attorney for a county, an assistant prosecuting attorney for a
7 county, the attorney general, the deputy attorney general, an
8 assistant attorney general, or a special prosecuting attorney.

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

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

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

16 (A) The spouse of the deceased victim.

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

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

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

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

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

1 (iii) A parent, guardian, or custodian of a victim who is
2 less than 18 years of age if the parent, guardian, or custodian
3 so chooses.

4 (iv) A parent, guardian, or custodian of a victim who is
5 mentally or emotionally unable to participate in the legal
6 process.

7 (2) If a victim as defined in subsection ~~-(1)(j)(i)-~~
8 (1)(K)(i) is physically or emotionally unable to exercise the
9 privileges and rights under this article, the victim may desig-
10 nate his or her spouse, child 18 years of age or older, parent,
11 sibling, or grandparent to act in his or her place while the
12 physical or emotional disability continues. The victim shall
13 provide the prosecuting attorney with the name of the person who
14 is to act in his or her place. During the physical or emotional
15 disability, notices to be provided under this article to the
16 victim shall continue to be sent only to the victim.

17 Sec. 15. (1) The victim ~~shall have~~ HAS the right to
18 appear and make an oral impact statement at the sentencing of the
19 defendant.

20 (2) A NEIGHBORHOOD ASSOCIATION WHOSE BOUNDARIES INCLUDE THE
21 VICTIM'S RESIDENCE HAS THE RIGHT TO APPEAR AND MAKE AN ORAL
22 IMPACT STATEMENT AT THE SENTENCING OF THE DEFENDANT. ANY MEMBER
23 OF THE NEIGHBORHOOD ASSOCIATION MAY MAKE THE ORAL IMPACT STATE-
24 MENT ON BEHALF OF THE NEIGHBORHOOD ASSOCIATION.

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

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

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

6 (c) "Juvenile" means an individual alleged or found to be
7 within the court's jurisdiction under section 2(a)(1) of
8 chapter XIIA of THE PROBATE CODE OF 1939, 1939 PA 288,
9 MCL 712A.2, for an offense.

10 (d) "Juvenile facility" means a county facility, an institu-
11 tion operated as an agency of the county or the court, or an
12 institution or agency described in the youth rehabilitation serv-
13 ices act, 1974 PA 150, MCL 803.301 to 803.309, to which a juve-
14 nile has been committed or in which a juvenile is detained.

15 (E) "NEIGHBORHOOD ASSOCIATION" MEANS EITHER OF THE
16 FOLLOWING:

17 (i) A NEIGHBORHOOD ORGANIZATION AS THAT TERM IS DEFINED IN
18 SECTION 5 OF THE NEIGHBORHOOD ASSISTANCE AND PARTICIPATION ACT,
19 1980 PA 56, MCL 125.805.

20 (ii) A NONGOVERNMENTAL ASSOCIATION OR ORGANIZATION THAT
21 SERVES AN AREA WITH GEOGRAPHICALLY DEFINABLE BOUNDARIES AND THAT
22 HAS AS ITS PRIMARY PURPOSE THE REDUCTION OF CRIME IN THAT AREA.

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

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

1 (ii) A violation of section 81, 81a, 115, 136b(5), 145a,
2 234, 235, 335a, or 411h of the Michigan penal code, 1931 PA 328,
3 MCL 750.81, 750.81a, 750.115, 750.136b, 750.145a, 750.234,
4 750.235, 750.335a, and 750.411h.

5 (iii) A violation of section 617a of the Michigan vehicle
6 code, 1949 PA 300, MCL 257.617a, or a violation of section 625 of
7 that act, MCL 257.625, if the violation involves an accident
8 resulting in damage to another individual's property or physical
9 injury or death to another individual.

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

15 (v) A violation of section 80176(1) or (3) of the natural
16 resources and environmental protection act, 1994 PA 451,
17 MCL 324.80176, if the violation involves an accident resulting in
18 damage to another individual's property or physical injury or
19 death to any individual.

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

22 (vii) A violation described in subparagraphs (i) to (vi)
23 that is subsequently reduced to a violation not included in sub-
24 paragraphs (i) to (vi).

25 (G) ~~(f)~~ "Person" means an individual, organization, part-
26 nership, corporation, or governmental entity.

1 (H) ~~(g)~~ "Prosecuting attorney" means the prosecuting
2 attorney for a county, an assistant prosecuting attorney for a
3 county, the attorney general, the deputy attorney general, an
4 assistant attorney general, a special prosecuting attorney, or in
5 connection with the prosecution of an ordinance violation, an
6 attorney for the political subdivision that enacted the ordinance
7 upon which the violation is based.

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

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

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

16 (A) The spouse of the deceased victim.

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

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

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

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

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

1 (iii) A parent, guardian, or custodian of a victim who is
2 less than 18 years of age if the parent, guardian, or custodian
3 so chooses.

4 (iv) A parent, guardian, or custodian of a victim who is
5 mentally or emotionally unable to participate in the legal
6 process.

7 (2) If a victim as defined in subsection ~~-(1)(h)(i)-~~
8 (1)(I)(i) is physically or emotionally unable to exercise the
9 privileges and rights under this article, the victim may desig-
10 nate his or her spouse, child 18 years of age or older, parent,
11 sibling, or grandparent to act in his or her place while the
12 physical or emotional disability continues. The victim shall
13 provide the prosecuting attorney with the name of the person who
14 is to act in his or her place. During the physical or emotional
15 disability, notices to be provided under this article to the
16 victim shall continue to be sent only to the victim.

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

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

24 (3) A NEIGHBORHOOD ASSOCIATION WHOSE BOUNDARIES INCLUDE THE
25 VICTIM'S RESIDENCE HAS THE RIGHT TO APPEAR AND MAKE AN ORAL
26 IMPACT STATEMENT AT THE DISPOSITION OF THE JUVENILE. ANY MEMBER

1 OF THE NEIGHBORHOOD ASSOCIATION MAY MAKE THE ORAL IMPACT
2 STATEMENT ON BEHALF OF THE NEIGHBORHOOD ASSOCIATION.

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

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

5 (i) A violation of section 81 of the Michigan penal code,
6 ~~Act No. 328 of the Public Acts of 1931, being section 750.81 of~~
7 ~~the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.81, assault and
8 battery.

9 (ii) A violation of section 81a of ~~Act No. 328 of the~~
10 ~~Public Acts of 1931, being section 750.81a of the Michigan~~
11 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81A,
12 assault; infliction of serious injury.

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

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

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

25 (vi) A violation of section 234 of ~~Act No. 328 of the~~
26 ~~Public Acts of 1931, being section 750.234 of the Michigan~~

1 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.234,
2 discharge of a firearm intentionally aimed at a person.

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

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

11 (ix) A violation of section 617a of the Michigan vehicle
12 code, ~~Act No. 300 of the Public Acts of 1949, being section~~
13 ~~257.617a of the Michigan Compiled Laws~~ 1949 PA 300,
14 MCL 257.617A, leaving the scene of a personal injury accident.

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

23 (xi) Selling or furnishing alcoholic liquor to an individual
24 less than 21 years of age in violation of section ~~33~~ 701 of the
25 Michigan liquor control ~~act, Act No. 8 of the Extra Session of~~
26 ~~the Public Acts of 1933, being section 436.33 of the Michigan~~

1 ~~Compiled Laws~~ CODE OF 1998, 1998 PA 58, MCL 436.1701, if the
2 violation results in physical injury or death to any individual.

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

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

17 (xiv) A violation of a local ordinance substantially corre-
18 sponding to a violation enumerated in subparagraphs (i) to
19 (xiii).

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

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

26 (c) "Final disposition" means the ultimate termination of
27 the criminal prosecution of a defendant including, but not

1 limited to, dismissal, acquittal, or imposition of a sentence by
2 the court.

3 (D) "NEIGHBORHOOD ASSOCIATION" MEANS EITHER OF THE
4 FOLLOWING:

5 (i) A NEIGHBORHOOD ORGANIZATION AS THAT TERM IS DEFINED IN
6 SECTION 5 OF THE NEIGHBORHOOD ASSISTANCE AND PARTICIPATION ACT,
7 1980 PA 56, MCL 125.805.

8 (ii) A NONGOVERNMENTAL ASSOCIATION OR ORGANIZATION THAT
9 SERVES AN AREA WITH GEOGRAPHICALLY DEFINABLE BOUNDARIES AND THAT
10 HAS AS ITS PRIMARY PURPOSE THE REDUCTION OF CRIME IN THAT AREA.

11 (E) ~~(d)~~ "Person" means an individual, organization, part-
12 nership, corporation, or governmental entity.

13 (F) ~~(e)~~ "Prisoner" means a person who has been convicted
14 and sentenced to imprisonment for having committed a serious mis-
15 demeanor against a victim.

16 (G) ~~(f)~~ "Prosecuting attorney" means the prosecuting
17 attorney for a county, an assistant prosecuting attorney for a
18 county, the attorney general, the deputy attorney general, an
19 assistant attorney general, a special prosecuting attorney, or,
20 in connection with the prosecution of an ordinance violation, an
21 attorney for the political subdivision that enacted the ordinance
22 upon which the violation is based.

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

25 (i) An individual who suffers direct or threatened physical,
26 financial, or emotional harm as a result of the commission of a

1 serious misdemeanor, except as provided in subparagraph (ii),
2 (iii), or (iv).

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

5 (A) The spouse of the deceased victim.

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

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

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

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

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

17 (iii) A parent, guardian, or custodian of a victim who is
18 less than 18 years of age if the parent, guardian, or custodian
19 so chooses.

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

23 (2) If a victim as defined in subsection ~~(1)(g)(i)~~
24 (1)(H)(i) is physically or emotionally unable to exercise the
25 privileges and rights under this article, the victim may desig-
26 nate his or her spouse, or a child 18 years of age or older,
27 parent, sibling, or grandparent of the victim to act in HIS OR

1 HER place ~~of the victim during the duration of~~ WHILE the
2 physical or emotional disability CONTINUES. The victim shall pro-
3 vide the prosecuting attorney with the name of the person who is
4 to act in place of the victim. During the physical or emotional
5 disability, notices to be provided under this article to the
6 victim shall continue to be sent only to the victim.

7 (3) An individual who is charged with a serious misdemeanor,
8 or a crime as defined in section 2, arising out of the same
9 transaction from which the charge against the defendant arose is
10 not eligible to exercise the privileges and rights established
11 for victims under this article.

12 Sec. 75. (1) If no presentence report is prepared, the
13 court shall notify the prosecuting attorney of the date and time
14 of sentencing at least 10 days prior to the sentencing. The
15 victim shall have the right to submit a written impact statement
16 and shall have the right to appear and make an oral impact state-
17 ment at the sentencing of the defendant. The court shall con-
18 sider the victim's statement in imposing sentence on the
19 defendant.

20 (2) A NEIGHBORHOOD ASSOCIATION WHOSE BOUNDARIES INCLUDE THE
21 VICTIM'S RESIDENCE HAS THE RIGHT TO APPEAR AND MAKE AN ORAL
22 IMPACT STATEMENT AT THE SENTENCING OF THE DEFENDANT. ANY MEMBER
23 OF THE NEIGHBORHOOD ASSOCIATION MAY MAKE THE ORAL IMPACT STATE-
24 MENT ON BEHALF OF THE NEIGHBORHOOD ASSOCIATION.