

# Legislative Analysis

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## REVISE CVRA TO PROTECT IDENTITY OF MINOR VICTIMS

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**House Bill 4725 (Substitute H-1)**  
**Sponsor: Rep. Tom McMillin**  
**Committee: Judiciary**

### First Analysis (1-30-12)

**BRIEF SUMMARY:** The bill would amend the William Van Regenmorter Crime Victim's Rights Act to protect from disclosure in police reports and other public documents that would identify victims of child abuse and sexual assaults who are less than 18 of age.

**FISCAL IMPACT:** This bill would have no fiscal impact on state or local governments.

### **THE APPARENT PROBLEM:**

Under authority of the state constitution, provisions of the William Van Regenmorter Crime Victim's Rights Act (CVRA) prohibit the disclosure under a FOIA request of a victim's home address, home telephone number, work address, and work telephone (unless the address identified the location of the crime), as well as any pictures, photographs, drawings, or other visual representations of the victim, which includes film, videotape, or digitally stored images. However, the CVRA does not protect the name of the victim, though most newspapers and broadcast media outlets voluntarily withhold the names of victims who are under 18 years of age.

Last session, the House Judiciary Committee heard testimony from the parents of a minor child who had been the victim of a sex crime. The parents were told that even if the perpetrator confessed to the crime, thus sparing the victim from appearing in court, there was no guarantee that the child's identity could be kept from public disclosure. Reportedly, the prosecutor told the family that once the case was resolved, anyone could request a copy of the police report by submitting a FOIA request (a request for public documents under the Freedom of Information Act). The police report would, of course, contain personal information about the victim, including the victim's name and address. Fearing exposure and the emotional impact that would bring, the victim decided not to press charges and the perpetrator was not prosecuted for the crime.

It has been suggested that the CVRA be amended to ensure that the names of victims of sex crimes and child abuse who are minors are not released under FOIA requests.

### **THE CONTENT OF THE BILL:**

The bill would prohibit certain governmental agencies from disclosing personally identifying information pertaining to minor victims of child abuse, criminal sexual conduct, sexual assaults or molestation, or similar crimes.

House Bill 4725 would amend the William Van Regenmorter Crime Victim's Rights Act (CVRA) to prohibit from disclosure under the Freedom of Information Act any of the following information concerning a crime of child abuse, criminal sexual conduct, sexual assault or molestation, or similar crime, in which one or more victims are less than 18 years of age:

- The name and address of any victim.
- The name and address of a victim's immediate family member or a victim's relative who has the same surname as the victim, other than the name and address of the accused.
- Any other information that would tend to reveal the identity of any victim, including a reference to a victim's familial or other relationship to the accused.

### ***BACKGROUND INFORMATION:***

House Bill 4725 is similar to House Bill 6101 of the 2009-2010 legislative session. That bill, which would have made similar amendments to the Freedom of Information Act, was reported from the House Judiciary Committee.

### ***ARGUMENTS:***

#### ***For:***

Child victims of sex crimes or abuse should not have to choose between keeping their identity secret or letting their abuser go unpunished. But in at least one case, that is the hard decision that a young sex crime victim had to make. Even though the perpetrator was willing to confess to avoid the publicity of a trial, the victim was told her name could be learned by anyone requesting the police files under a FOIA request. Being the victim of a crime is difficult enough, but navigating the looks, questions, or even derision that often are directed at sex crime or abuse victims while still a child can be overwhelming and detrimental to a child's emotional and social development.

The bill would address this concern by requiring a public body (which would include courts, police agencies, and prosecutors' offices) to redact, or make unreadable, certain information in reports compiled for crime investigations (or other public documents) that would reveal the identity of a victim of a sex-related crime or child abuse if the victim was under 18 years of age. Thus, the bill could facilitate prosecution of perpetrators and give the young victims a sense that justice had been served.

#### ***Against:***

The bill as written has a flaw that could be problematic. For instance, in the case of a record relating to child abuse or sex crimes in which more than one victim was identified, the bill would exempt from disclosure the names of all the victims, not just the one or ones who are minors. A similar law from the state of Washington is much clearer that the exemption from disclosure as a public record applies only to the information pertaining to a minor victim, and also is clear that the entire record is not subject to the exemption, but only identifying information relating to the minor victim.

***POSITIONS:***

A representative of the Office of Attorney General testified in support of the bill. (1-19-12)

The Michigan Coalition Against Domestic and Sexual Violence indicated support for the bill. (1-19-12)

Michigan Domestic Violence Prevention & Treatment Board indicated support for the bill. (1-19-12)

The Michigan State Police indicated support for the bill. (1-19-12)

The State Bar of Michigan indicated support for the bill. (1-19-12)

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