

# HOUSE BILL No. 5322

February 9, 2016, Introduced by Reps. Irwin, Robinson, Plawecki and Pagan and referred to the Committee on Criminal Justice.

A bill to amend 1985 PA 87, entitled  
"William Van Regenmorter crime victim's rights act,"  
by amending sections 2 and 20a (MCL 780.752 and 780.770a), section  
2 as amended by 2014 PA 133 and section 20a as amended by 1998 PA  
523.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2. (1) Except as otherwise defined in this article, as  
2       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, MCL  
5       45.622.

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

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

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

6 (e) "Facility", as used in sections 6, 13a, 19a, and 20 only,  
7 and not with reference to a juvenile facility, means that term as  
8 defined in section 100b of the mental health code, 1974 PA 258, MCL  
9 330.1100b.

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

13 (g) "Juvenile" means a person within the jurisdiction of the  
14 circuit court under section 606 of the revised judicature act of  
15 1961, 1961 PA 236, MCL 600.606, **UNTIL THE EFFECTIVE DATE OF THE**  
16 **AMENDATORY ACT THAT REPEALED SECTION 606 OF THE REVISED JUDICATURE**  
17 **ACT OF 1961, 1961 PA 236, MCL 600.606.**

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

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

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

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

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

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

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

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

15           (A) The spouse of the deceased victim.

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

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

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

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

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

27           (iii) A parent, guardian, or custodian of a victim who is less

1 than 18 years of age and who is neither the defendant nor  
2 incarcerated, if the parent, guardian, or custodian so chooses. For  
3 the purpose of making an impact statement only, a parent, guardian,  
4 or custodian of a victim who is less than 18 years of age at the  
5 time of the commission of the crime and who is neither the  
6 defendant nor incarcerated, if the parent, guardian, or custodian  
7 so chooses.

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

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

22 (3) An individual who is charged with a crime arising out of  
23 the same transaction from which the charge against the defendant  
24 arose is not eligible to exercise the privileges and rights  
25 established for victims under this article.

26 (4) An individual who is incarcerated is not eligible to  
27 exercise the privileges and rights established for victims under

1 this article except that he or she may submit a written statement  
2 to the court for consideration at sentencing.

3 Sec. 20a. (1) ~~Upon~~ **UNTIL THE EFFECTIVE DATE OF THE AMENDATORY**  
4 **ACT THAT REPEALED SECTION 606 OF THE REVISED JUDICATURE ACT OF**  
5 **1961, 1961 PA 236, MCL 600.606, UPON** a victim's written request,  
6 ~~the family independence agency~~ **DEPARTMENT OF HEALTH AND HUMAN**  
7 **SERVICES** or county juvenile agency, as applicable, shall make a  
8 good faith effort to notify the victim before either of the  
9 following occurs:

10 (a) A juvenile is dismissed from court jurisdiction or  
11 discharged from commitment to the ~~family independence agency~~  
12 **DEPARTMENT OF HEALTH AND HUMAN SERVICES** or county juvenile agency.

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

15 (2) If the ~~family independence agency~~ **DEPARTMENT OF HEALTH AND**  
16 **HUMAN SERVICES** or county juvenile agency is not successful in  
17 notifying the victim before an event described in subsection (1)  
18 occurs, it shall notify the victim as soon as possible after that  
19 event occurs by any means reasonably calculated to give prompt  
20 actual notice.

21 (3) ~~Upon~~ **UNTIL THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**  
22 **REPEALED SECTION 606 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA**  
23 **236, MCL 600.606, UPON** the victim's written request, the ~~family~~  
24 ~~independence agency~~ **DEPARTMENT OF HEALTH AND HUMAN SERVICES** or  
25 county juvenile agency, as applicable, shall give to the victim  
26 notice of a juvenile's escape. A victim who requests notice of an  
27 escape shall be given immediate notice of the escape by any means

1 reasonably calculated to give prompt actual notice. If the escape  
2 occurs before the juvenile is delivered to the ~~family independence~~  
3 ~~agency~~**DEPARTMENT OF HEALTH AND HUMAN SERVICES** or county juvenile  
4 agency, the agency in charge of the juvenile's detention shall give  
5 notice of the escape to the ~~family independence agency~~**DEPARTMENT**  
6 **OF HEALTH AND HUMAN SERVICES** or county juvenile agency, which shall  
7 then give notice of the escape to the victim who requested notice.

8       Enacting section 1. This amendatory act takes effect 90 days  
9 after the date it is enacted into law.

10       Enacting section 2. This amendatory act does not take effect  
11 unless Senate Bill No.\_\_\_\_ or House Bill No. 5317 (request no.  
12 02924'15) of the 98th Legislature is enacted into law.