

HOUSE BILL NO. 5679

January 18, 2022, Introduced by Rep. Filler and referred to the Committee on Judiciary.

A bill to amend 1985 PA 87, entitled "William Van Regenmorter crime victim's rights act," by amending sections 61 and 61a (MCL 780.811 and 780.811a), section 61 as amended by 2018 PA 370 and section 61a as amended by 2005 PA 184.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 61. (1) Except as otherwise defined in this article, as
2 used in this article:

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

4 (i) A violation of section 81 of the Michigan penal code, 1931

1 PA 328, MCL 750.81, assault and battery, including domestic
2 violence.

3 (ii) A violation of section 81a of the Michigan penal code,
4 1931 PA 328, MCL 750.81a, assault; infliction of serious injury,
5 including aggravated domestic violence.

6 (iii) **Beginning January 1, 2023, a violation of section 81c(1)**
7 **of the Michigan penal code, 1931 PA 328, MCL 750.81c, threatening**
8 **department of health and human services' employee with physical**
9 **harm.**

10 (iv) ~~(iii)~~—A violation of section 115 of the Michigan penal code,
11 1931 PA 328, MCL 750.115, breaking and entering or illegal entry.

12 (v) **Beginning January 1, 2023, a violation of section**
13 **135a(2) (b) of the Michigan penal code, 1931 PA 328, MCL 750.135a,**
14 **leaving a child in a vehicle resulting in physical harm.**

15 (vi) ~~(iv)~~—A violation of section 136b(7) of the Michigan penal
16 code, 1931 PA 328, MCL 750.136b, child abuse in the fourth degree.

17 (vii) ~~(v)~~—A violation of section 145 of the Michigan penal code,
18 1931 PA 328, MCL 750.145, contributing to the neglect or
19 delinquency of a minor.

20 (viii) ~~(vi)~~—A misdemeanor violation of section 145d of the
21 Michigan penal code, 1931 PA 328, MCL 750.145d, using the internet
22 or a computer to make a prohibited communication.

23 (ix) **Beginning January 1, 2023, a violation of section 145n(4)**
24 **of the Michigan penal code, 1931 PA 328, MCL 750.145n, vulnerable**
25 **adult abuse in the fourth degree.**

26 (x) **Beginning January 1, 2023, a violation of section 145p(3)**
27 **of the Michigan penal code, 1931 PA 328, MCL 750.145p, retaliation**
28 **or discrimination against an employee.**

29 (xi) **Beginning January 1, 2023, a violation of section 174a(2)**

1 or (3) (b) of the Michigan penal code, 1931 PA 328, MCL 750.174a,
2 embezzlement from a vulnerable adult of an amount not more than
3 \$200.00.

4 (xii) Beginning January 1, 2023, a violation of section
5 174a(3) (a) of the Michigan penal code, 1931 PA 328, MCL 750.174a,
6 embezzlement from a vulnerable adult of an amount not less than
7 \$200.00 and not more than \$1,000.00.

8 (xiii) ~~(vii)~~—A violation of section 233 of the Michigan penal
9 code, 1931 PA 328, MCL 750.233, intentionally aiming a firearm
10 without malice.

11 (xiv) ~~(viii)~~—A violation of section 234 of the Michigan penal
12 code, 1931 PA 328, MCL 750.234, discharge of a firearm
13 intentionally aimed at a person.

14 (xv) ~~(ix)~~—A violation of section 235 of the Michigan penal
15 code, 1931 PA 328, MCL 750.235, discharge of an intentionally aimed
16 firearm resulting in injury.

17 (xvi) ~~(x)~~—A violation of section 335a of the Michigan penal
18 code, 1931 PA 328, MCL 750.335a, indecent exposure.

19 (xvii) Beginning January 1, 2023, a violation of section
20 377a(1) (c) or (d) of the Michigan penal code, 1931 PA 328, MCL
21 750.377a, malicious destruction of personal property.

22 (xviii) Beginning January 1, 2023, a violation of section 380(4)
23 or (5) of the Michigan penal code, 1931 PA 328, MCL 750.380,
24 malicious destruction of a building.

25 (xix) Beginning January 1, 2023, a violation of section 410(2)
26 of the Michigan penal code, 1931 PA 328, MCL 750.410, buying or
27 selling patient records.

28 (xx) ~~(xi)~~—A violation of section 411h of the Michigan penal
29 code, 1931 PA 328, MCL 750.411h, stalking.

1 **(xxi) Beginning January 1, 2023, a violation of section**
2 **411t(2) (a) of the Michigan penal code, 1931 PA 328, MCL 750.411t,**
3 **hazing resulting in physical injury.**

4 **(xxii) Beginning January 1, 2023, a violation of section**
5 **483a(2) (a) of the Michigan penal code, 1931 PA 328, MCL 750.483a,**
6 **interfering with a crime report.**

7 **(xxiii) Beginning January 1, 2023, a violation of section 540e**
8 **of the Michigan penal code, 1931 PA 328, MCL 750.540e, malicious**
9 **use of telecommunications services, or destruction or interference**
10 **of a telecommunication device.**

11 **(xxiv) ~~(xii)~~A violation of section 601b(2) of the Michigan**
12 **vehicle code, 1949 PA 300, MCL 257.601b, injuring a worker in a**
13 **work zone.**

14 **(xxv) Beginning January 1, 2023, a violation of section 601d(1)**
15 **of the Michigan vehicle code, 1949 PA 300, MCL 257.601d, moving**
16 **violation causing death.**

17 **(xxvi) Beginning January 1, 2023, a violation of section**
18 **601d(2) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d,**
19 **moving violation causing serious impairment of a body function.**

20 **(xxvii) ~~(xiii)~~A violation of section 617a of the Michigan vehicle**
21 **code, 1949 PA 300, MCL 257.617a, leaving the scene of a personal**
22 **injury accident.**

23 **(xxviii) ~~(xiv)~~A violation of section 625 of the Michigan vehicle**
24 **code, 1949 PA 300, MCL 257.625, operating a vehicle while under the**
25 **influence of or impaired by intoxicating liquor or a controlled**
26 **substance, or with an unlawful blood alcohol content, if the**
27 **violation involves an accident resulting in damage to another**
28 **individual's property or physical injury or death to another**
29 **individual.**

1 **(xxix)** ~~(xv)~~ Selling or furnishing alcoholic liquor to an
 2 individual less than 21 years of age in violation of section 701 of
 3 the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,
 4 if the violation results in physical injury or death to any
 5 individual.

6 **(xxx)** ~~(xvi)~~ A violation of section 80176(1) or (3) of the
 7 natural resources and environmental protection act, 1994 PA 451,
 8 MCL 324.80176, operating a vessel while under the influence of or
 9 impaired by intoxicating liquor or a controlled substance, or with
 10 an unlawful blood alcohol content, if the violation involves an
 11 accident resulting in damage to another individual's property or
 12 physical injury or death to any individual.

13 **(xxxii) A violation of section 12, 40, or 72, discharge or**
 14 **discipline of a victim.**

15 **(xxxiii)** ~~(xvii)~~ A violation of a local ordinance substantially
 16 corresponding to a violation enumerated in subparagraphs (i) to
 17 ~~(xvi)~~ **(xxxi)** .

18 **(xxxiiii)** ~~(xviii)~~ A violation charged as a crime or serious
 19 misdemeanor enumerated in subparagraphs (i) to ~~(xvii)~~ **(xxxi)** but
 20 subsequently reduced to or pleaded to as a misdemeanor. As used in
 21 this subparagraph, "crime" means that term as defined in section 2.

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

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

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

29 (e) "Person" means an individual, organization, partnership,

1 corporation, or governmental entity.

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

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

12 (h) "Victim" 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), (iii),
16 (iv), or (v).

17 (ii) The following individuals other than the defendant if the
18 victim is deceased, except as provided in subparagraph (v):

19 (A) The spouse of the deceased victim.

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

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

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

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

29 (F) A grandparent of the deceased victim if sub-subparagraphs

1 (A) to (E) do not apply.

2 (iii) A parent, guardian, or custodian of a victim who is less
3 than 18 years of age and who is neither the defendant nor
4 incarcerated, if the parent, guardian, or custodian so chooses.

5 (iv) A parent, guardian, or custodian of a victim who is so
6 mentally incapacitated that he or she cannot meaningfully
7 understand or participate in the legal process if he or she is not
8 the defendant and is not incarcerated.

9 (v) For the purpose of submitting or making an impact
10 statement only, if the victim as defined in subparagraph (i) is
11 deceased, is so mentally incapacitated that he or she cannot
12 meaningfully understand or participate in the legal process, or
13 consents to the designation as a victim of the following
14 individuals other than the defendant:

15 (A) The spouse of the victim.

16 (B) A child of the victim if the child is 18 years of age or
17 older.

18 (C) A parent of the victim.

19 (D) The guardian or custodian of a child of the victim if the
20 child is less than 18 years of age.

21 (E) A sibling of the victim.

22 (F) A grandparent of the victim.

23 (G) A guardian or custodian of the victim if the victim is
24 less than 18 years of age at the time of the commission of the
25 crime and that guardian or custodian is not incarcerated.

26 (2) If a victim as defined in subsection (1) (h) (i) is
27 physically or emotionally unable to exercise the privileges and
28 rights under this article, the victim may designate his or her
29 spouse, child 18 years of age or older, parent, sibling, or

1 grandparent or any other person 18 years of age or older who is
 2 neither the defendant nor incarcerated to act in his or her place
 3 while the physical or emotional disability continues. The victim
 4 shall provide the prosecuting attorney with the name of the person
 5 who is to act in place of the victim. During the physical or
 6 emotional disability, notices to be provided under this article to
 7 the victim must continue to be sent only to the victim.

8 (3) An individual who is charged with a serious misdemeanor, a
 9 crime as defined in section 2, or an offense as defined in section
 10 31 arising out of the same transaction from which the charge
 11 against the defendant arose is not eligible to exercise the
 12 privileges and rights established for victims under this article.

13 (4) An individual who is incarcerated is not eligible to
 14 exercise the privileges and rights established for victims under
 15 this article except that he or she may submit a written statement
 16 to the court for consideration at sentencing.

17 Sec. 61a. A law enforcement officer or prosecuting attorney
 18 who files with the court a complaint, appearance ticket, traffic
 19 citation, or other charging instrument regarding a serious
 20 misdemeanor described in section ~~61(1)(a)(xv), (xvi), or (xvii),~~
 21 **61(1)(a)(xxviii), (xxix), or (xxx)**, or a local ordinance substantially
 22 corresponding to a serious misdemeanor described in section
 23 ~~61(1)(a)(xv), (xvi), or (xvii),~~ **61(1)(a)(xxviii), (xxix), or (xxx)**, shall
 24 place a statement on the complaint, appearance ticket, traffic
 25 citation, or other charging instrument that the offense resulted in
 26 damage to another individual's property or physical injury or death
 27 to another individual.