

**WILLIAM VAN REGENMORTER CRIME VICTIM'S RIGHTS ACT (EXCERPT)**

**Act 87 of 1985**

**ARTICLE 2**

**780.781 Definitions; designation of person to act in place of victim; individual charged with offense arising out of same transaction; eligibility to exercise privileges and rights established for victims.**

Sec. 31. (1) Except as otherwise defined in this article, as used in this article:

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

(b) "Court" means the family division of circuit court.

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

(d) "Designated case" means a case designated as a case in which the juvenile is to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.

(e) "Juvenile" means an individual alleged or found to be within the court's jurisdiction under section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for an offense, including, but not limited to, an individual in a designated case.

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

(g) "Offense" means 1 or more of the following:

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

(ii) A violation of section 81 (assault and battery, including domestic violence), 81a (assault; infliction of serious injury, including aggravated domestic violence), 115 (breaking and entering or illegal entry), 136b(7) (child abuse in the fourth degree), 145 (contributing to the neglect or delinquency of a minor), 145d (using the internet or a computer to make a prohibited communication), 233 (intentionally aiming a firearm without malice), 234 (discharge of a firearm intentionally aimed at a person), 235 (discharge of an intentionally aimed firearm resulting in injury), 335a (indecent exposure), or 411h (stalking) of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.115, 750.136b, 750.145, 750.145d, 750.233, 750.234, 750.235, 750.335a, and 750.411h.

(iii) A violation of section 601b(2) (injuring a worker in a work zone) or 617a (leaving the scene of a personal injury accident) of the Michigan vehicle code, 1949 PA 300, MCL 257.601b and 257.617a, or a violation of section 625 (operating a vehicle while under the influence of or impaired by intoxicating liquor or a controlled substance, or with unlawful blood alcohol content) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, if the violation involves an accident resulting in damage to another individual's property or physical injury or death to another individual.

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

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

(vi) A violation of a local ordinance substantially corresponding to a law enumerated in subparagraphs (i) to (v).

(vii) A violation described in subparagraphs (i) to (vi) that is subsequently reduced to a violation not included in subparagraphs (i) to (vi).

(h) "Person" means an individual, organization, partnership, corporation, or governmental entity.

(i) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(j) "Victim" means any of the following:

(i) A person who suffers direct or threatened physical, financial, or emotional harm as a result of the

commission of an offense, except as provided in subparagraph (ii), (iii), (iv), or (v).

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

(A) The spouse of the deceased victim.

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

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

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

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

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

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

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

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

(A) The spouse of the victim.

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

(C) A parent of the victim.

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

(E) A sibling of the victim.

(F) A grandparent of the victim.

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

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

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

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 82, Imd. Eff. Feb. 27, 1996;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007;—Am. 2009, Act 28, Eff. July 1, 2009;—Am. 2014, Act 134, Eff. July 1, 2014;—Am. 2018, Act 370, Eff. Mar. 17, 2019.

**Compiler's note:** Enacting section 1 of Act 28 of 2009 provides:

"Enacting section 1. This amendatory act takes effect July 1, 2009, and applies only to crimes committed on and after that date."

## **780.781a Duty to provide notice to victim; furnishing information or records; exception for address confidentiality program.**

Sec. 31a. (1) The duty under this article and under section 24 of article I of the state constitution of 1963 of a court, the department of corrections, the department of health and human services, a county sheriff, or a prosecuting attorney to provide a notice to a victim also applies if the case against the defendant is resolved by assignment of the defendant to trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal. In performing a duty under this article or under section 24 of article I of the state constitution of 1963, the court, department of corrections, department of health and human services, county sheriff, or prosecuting attorney may furnish information or records to the victim that would otherwise be closed to public inspection, including information or records described in section 14 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.14.

(2) In performing a duty to provide notice by mail under this article or under section 24 of article I of the state constitution of 1963, the court, department of corrections, department of health and human services, county sheriff, or prosecuting attorney shall mail the notice to the address provided by the victim, except as

otherwise provided under section 11 of the address confidentiality program act. If the victim is a program participant as that term is defined in section 3 of the address confidentiality program act, the victim may provide the address designated by the department of the attorney general.

**History:** Add. 2006, Act 461, Eff. Jan. 1, 2007;—Am. 2020, Act 278, Imd. Eff. Dec. 29, 2020.

#### **780.782 Information to be given victim.**

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

- (a) The availability of emergency and medical services, if applicable.
- (b) The availability of victim's compensation benefits and the address of the crime victims compensation board.
- (c) The address and telephone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.
- (d) The following statements:

"If you would like to be notified of an arrest in your case or the release of the person arrested, or both, you should call [identify law enforcement agency and telephone number] and inform them."

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

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.783 Return of property to victim.**

Sec. 33. (1) The law enforcement agency having responsibility for investigating a reported offense shall promptly return to the victim property belonging to that victim that is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property that is contraband.

(3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.

(4) The agency shall retain as evidence any weapon used in the commission of the offense and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.783a Statement on complaint or petition.**

Sec. 33a. The investigating agency or prosecuting attorney that files a complaint or submits a petition seeking to invoke the court's jurisdiction for a juvenile offense described in section 31(1)(d)(iii), (iv), or (v), or a local ordinance substantially corresponding to a juvenile offense described in section 31(1)(d)(iii), (iv), or (v), shall place a statement on the complaint or petition that the offense resulted in damage to another individual's property or physical injury or death to another individual.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.783b Victim of identity theft; filing police report; jurisdiction; "identity theft" defined.**

Sec. 33b. (1) To facilitate compliance with 15 USC 1681g, a bona fide victim of identity theft is entitled to file a police report with a law enforcement agency in a jurisdiction where the alleged violation of identity theft may be prosecuted as provided under section 10c of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.10c, and to obtain a copy of that report from that law enforcement agency.

(2) As used in this section, "identity theft" means that term as defined in section 3 of the identity theft protection act.

**History:** Add. 2004, Act 456, Eff. Mar. 1, 2005.

#### **780.784 Separate statement.**

Sec. 34. The investigating agency that files a complaint or submits a petition seeking to invoke the court's jurisdiction for a juvenile offense shall file with the complaint or petition a separate statement listing any known victims of the juvenile offense and their addresses and phone numbers. This separate statement shall not be a matter of public record.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.785 Victim to be given telephone number of juvenile facility and notice of release; motion to detain juvenile in facility.**

Sec. 35. (1) If the juvenile has been placed in a juvenile facility, not later than 48 hours after the preliminary hearing of that juvenile for a juvenile offense, the prosecuting attorney or, pursuant to an agreement under section 48a, the court shall give to the victim the telephone number of the juvenile facility and notice that the victim may contact the juvenile facility to determine whether the juvenile has been released from custody. The law enforcement agency having responsibility for investigating the crime shall promptly notify the victim of the arrest or pretrial release of the juvenile, or both, if the victim requests or has requested that information. If the juvenile is released from custody by the sheriff or juvenile facility, the sheriff or juvenile facility shall notify the law enforcement agency having responsibility for investigating the crime.

(2) Based upon any credible evidence of acts or threats of physical violence or intimidation by the juvenile or at the juvenile's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the juvenile be detained in a juvenile facility.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.786 Court jurisdiction; notices to victim; consultation with prosecuting attorney; persons to be informed of victim's current address and telephone number.**

Sec. 36. (1) The court shall accept a petition submitted by a prosecuting attorney that seeks to invoke the court's jurisdiction for a juvenile offense, unless the court finds on the record that the petitioner's allegations are insufficient to support a claim of jurisdiction under section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(2) Within 72 hours after the prosecuting attorney files or submits a petition seeking to invoke the court's jurisdiction for an offense, the prosecuting attorney, or the court pursuant to an agreement under section 48a, shall give to each victim a written notice in plain English of each of the following:

(a) A brief statement of the procedural steps in processing a juvenile case, including the fact that a juvenile may be tried in the same manner as an adult in a designated case or waived to the court of general criminal jurisdiction.

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

(c) A convenient means for the victim to notify the prosecuting attorney that the victim chooses to exercise his or her rights under this article.

(d) Details and eligibility requirements for compensation from the crime victim services commission under 1976 PA 223, MCL 18.351 to 18.368.

(e) Suggested procedures if the victim is subjected to threats or intimidation.

(f) The person to contact for further information.

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

(4) If the juvenile has not already entered a plea of admission or no contest to the original charge at the preliminary hearing, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the victim's views about the disposition of the offense, including the victim's views about dismissal, waiver, and pretrial diversion programs, before finalizing any agreement to reduce the original charge.

(5) A victim who receives a notice under subsection (2) and chooses to receive any notice or exercise any right under this article shall keep the following persons informed of the victim's current address or address designated by the department of the attorney general if he or she is a program participant as that term is defined in section 3 of the address confidentiality program act and telephone number:

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

(b) If the juvenile is made a public ward, the department of health and human services or county juvenile agency, as applicable.

(c) If the juvenile is imprisoned, the department of corrections or the sheriff as directed by the prosecuting attorney.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2020, Act 278, Imd. Eff. Dec. 29, 2020.

#### **780.786a Speedy trial.**

Sec. 36a. (1) As provided in subsection (2), a speedy trial may be scheduled for any case in which the victim is declared by the prosecuting attorney to be any of the following:

(a) A victim of child abuse, including sexual abuse or any other assaultive crime.

(b) A victim of criminal sexual conduct in the first, second, or third degree or of an assault with intent to commit criminal sexual conduct involving penetration or to commit criminal sexual conduct in the second

degree.

(c) Sixty-five years of age or older.

(d) An individual with a disability that inhibits the individual's ability to attend court or participate in the proceedings.

(2) The court, upon motion of the prosecuting attorney for a speedy trial for a case described in subsection (1), shall set a hearing date within 14 days after the motion is filed. Notice shall be made pursuant to the Michigan court rules. If the motion is granted, the trial shall not be scheduled earlier than 21 days from the date of the hearing.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.786b Removal of case from adjudicative process; notice required; hearing; consultation of victim with prosecuting attorney.**

Sec. 36b. (1) Except for a dismissal based upon a judicial finding on the record that the petition and the facts supporting it are insufficient to support a claim of jurisdiction under section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, a case involving the alleged commission of an offense, as defined in section 31, by a juvenile shall not be diverted, placed on the consent calendar, or made subject to any other prepetition or preadjudication procedure that removes the case from the adjudicative process unless the court gives written notice to the prosecuting attorney of the court's intent to remove the case from the adjudicative process and allows the prosecuting attorney the opportunity to address the court on that issue before the case is removed from the adjudicative process. Before any formal or informal action is taken, the prosecutor shall give the victim notice of the time and place of the hearing on the proposed removal of the case from the adjudicative process. The victim has the right to attend the hearing and to address the court at the hearing. As part of any other order removing any case from the adjudicative process, the court shall order the juvenile or the juvenile's parents to provide full restitution as provided in section 44.

(2) Before finalizing any informal disposition, preadjudication, or expedited procedure, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about that manner of disposing of the case.

**History:** Add. 2000, Act 503, Eff. June 1, 2001.

#### **780.787 Separate waiting area; other safeguards.**

Sec. 37. The court shall provide a waiting area for the victim separate from the juvenile, the juvenile's relatives, and the juvenile's witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with the juvenile, the juvenile's relatives, and the juvenile's witnesses during court proceedings.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.788 Testimony not to be compelled; hearing; exemption from disclosure; exception.**

Sec. 38. (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the juvenile or at the juvenile's direction against the victim or the victim's immediate family, the prosecuting attorney may move or, in the absence of a prosecuting attorney, the victim may request that the victim or any other witness not be compelled to testify at any court hearing for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion must be in camera.

(2) Under section 24 of article I of the state constitution of 1963, guaranteeing to crime victims the right to be treated with respect for their dignity and privacy, the following information and visual representations of a victim are subject to the following:

(a) The home address, home telephone number, work address, and work telephone number of the victim are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(b) A picture, photograph, drawing, or other visual representation, including any film, videotape, or digitally stored image of the victim, are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and, if the picture, photograph, drawing, or other visual representation is from a court proceeding that is made available to the public through streaming on the internet or other means, the picture, photograph, drawing, or visual representation may be blurred.

(c) The following information concerning a victim of child abuse, criminal sexual conduct, assault with intent to commit criminal sexual conduct, or a similar crime who was less than 18 years of age when the crime was committed is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:



- (i) The victim's name and address.
  - (ii) The name and address of an immediate family member or relative of the victim, who has the same surname as the victim, other than the name and address of the accused.
  - (iii) Any other information that would tend to reveal the identity of the victim, including a reference to the victim's familial or other relationship to the accused.
- (3) Subsection (2) does not preclude the release of information to a victim advocacy organization or agency for the purpose of providing victim services.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2012, Act 457, Imd. Eff. Dec. 27, 2012;—Am. 2023, Act 179, Eff. Feb. 13, 2024.

#### **780.789 Presence of victim at hearing; sequestering of victim.**

Sec. 39. The victim has the right to be present throughout the entire contested adjudicative hearing or waiver hearing of the juvenile, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court, for good cause shown, may order the victim to be sequestered until the victim first testifies. The victim shall not be sequestered after he or she first testifies.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.790 Discharge or discipline of victim or victim representative by employer or employer's agent; misdemeanor; contempt; "victim representative" defined.**

Sec. 40. (1) An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and may be punished for contempt of court.

(2) An employer or an employer's agent who disciplines or discharges a victim representative from employment, causes a victim representative to be disciplined or discharged from employment or threatens to discipline or discharge a victim representative from employment because that victim representative attends or desires to attend court to be present during the testimony of the victim, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and may be punished for contempt of court.

(3) As used in this section, "victim representative" means any of the following:

- (a) A guardian or custodian of a child of a deceased victim if the child is less than 18 years of age.
- (b) A parent, guardian, or custodian of a victim of an offense that if committed by an adult would be an assaultive crime if the victim of the offense is less than 18 years of age.
- (c) A person who has been designated under section 31(2) to act in place of a victim of an offense that if committed by an adult would be an assaultive crime during the duration of the victim's physical or emotional disability.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994.

#### **780.791 Additional notices to victim.**

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

- (a) The offenses for which the juvenile was adjudicated or convicted.
- (b) The victim's right to make an impact statement at the disposition hearing or sentencing.
- (c) The time and place of the disposition or sentencing proceeding.

(2) If a report is to be prepared for the juvenile's disposition or for a sentencing in a proceeding that is a designated case, the person preparing the report shall give notice to the victim of all of the following:

- (a) The victim's right to make an impact statement for use in preparing the report.
- (b) The address and telephone number of the person who is to prepare the report.
- (c) The fact that the report and any statement of the victim included in the report will be made available to the juvenile unless exempted from disclosure by the court.

(3) A notice under subsection (1) or (2) shall inform the victim that his or her impact statement may be oral or written and may include, but shall not be limited to, any of the following:

- (a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.
- (b) An explanation of the extent of any economic loss or property damage suffered by the victim.
- (c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.

(d) The victim's recommendation for an appropriate disposition or sentence.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.791a Providing victim with form to receive certain notices.**

Sec. 41a. If a juvenile is ordered to be placed in a juvenile facility or sentenced to probation or to a term of imprisonment, the prosecuting attorney, or the court pursuant to an agreement under section 48a, shall provide the victim with a form the victim may submit to receive the notices from the court, prosecuting attorney, department of health and human services, or county juvenile agency, as applicable, provided for under section 45a or 48. The form must include the address of the court, prosecuting attorney, department of health and human services, county juvenile agency, department of corrections, or the sheriff, as applicable, to which the form may be sent and a statement that the victim may use the address designated by the department of the attorney general to receive notices if the victim is a program participant as that term is defined in section 3 of the address confidentiality program act.

**History:** Add. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2006, Act 461, Eff. Jan. 1, 2007;—Am. 2020, Act 278, Imd. Eff. Dec. 29, 2020.

#### **780.792 Report; impact statement.**

Sec. 42. (1) If a report is to be prepared for the juvenile's disposition or for a sentencing in a proceeding that is a designated case, the victim has the right to submit a written or oral impact statement to the person preparing the report for that person's use in preparing the report.

(2) If no presentence report is prepared, the court shall notify the prosecuting attorney of the date and time of sentencing at least 10 days prior to the disposition or sentencing.

(3) Upon the victim's request, a victim's written statement under this section shall be included in the report.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.793 Appearance and statement of victim; notice of disposition; physical presence of juvenile; remote option; 2018 PA 153 may be cited as "Rebekah Bletsch law".**

Sec. 43. (1) The victim has the right to appear and make an oral impact statement at the juvenile's disposition or sentencing. If the victim is physically or emotionally unable to make the oral impact statement, the victim may designate any other person 18 years of age or older who is neither the defendant nor incarcerated to make the statement on the victim's behalf. The other person need not be an attorney. The victim may elect to remotely provide the oral impact statement under this section.

(2) On request, the prosecuting attorney, or, in accordance with an agreement under section 48a, the court, shall notify the victim of the disposition of the juvenile's offense not more than 30 days after the disposition is made.

(3) Unless the court has determined, in its discretion, that the juvenile is behaving in a disruptive manner or presents a threat to the safety of any individuals present in the courtroom, the juvenile must be physically present in the courtroom at the time a victim makes an oral impact statement under subsection (1). In making its determination under this subsection, the court may consider any relevant statement provided by the victim regarding the juvenile being physically present during that victim's oral impact statement. This subsection applies to cases in which the sentencing of the juvenile occurs after May 22, 2018.

(4) 2018 PA 153, which amended this section and sections 15 and 75, may be cited as the "Rebekah Bletsch law".

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2018, Act 153, Imd. Eff. May 23, 2018;—Am. 2023, Act 178, Eff. Feb. 13, 2024.

#### **780.794 Definitions; order of restitution to be made by juvenile.**

Sec. 44. (1) As used in this section only:

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

(b) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of an offense. As used in subsections (2), (3), (6), (8), (9), and (13) only, victim includes a sole proprietorship, partnership, corporation, association, governmental entity, or any other legal entity that suffers direct physical or financial harm as a result of an offense.

(2) Except as provided in subsection (8), at the dispositional hearing or sentencing for an offense, the court shall order, in addition to or in lieu of any other disposition or penalty authorized by law, that the juvenile make full restitution to any victim of the juvenile's course of conduct that gives rise to the disposition or conviction or to the victim's estate. For an offense that is resolved informally by means of a consent calendar

diversion or by another informal method that does not result in a dispositional hearing, by assignment to youthful trainee status, by a delayed sentence or deferred judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, the court shall order the restitution required under this section.

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

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

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraph (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

(i) The fair market value of the property on the date of the damage, loss, or destruction. However, if the fair market value of the property cannot be determined or is impractical to ascertain, then the replacement value of the property shall be utilized in lieu of the fair market value.

(ii) The fair market value of the property on the date of disposition. However, if the fair market value of the property cannot be determined or is impractical to ascertain, then the replacement value of the property shall be utilized in lieu of the fair market value.

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

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

(a) Pay an amount equal to the reasonably determined cost of medical and related professional services and devices actually incurred and reasonably expected to be incurred relating to physical and psychological care.

(b) Pay an amount equal to the reasonably determined cost of physical and occupational therapy and rehabilitation actually incurred and reasonably expected to be incurred.

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

(d) Pay an amount equal to the reasonably determined cost of psychological and medical treatment for members of the victim's family actually incurred or reasonably expected to be incurred as a result of the offense.

(e) Pay an amount equal to the reasonably determined costs of homemaking and child care expenses actually incurred or reasonably expected to be incurred as a result of the offense or, if homemaking or child care is provided without compensation by a relative, friend, or any other person, an amount equal to the costs that would reasonably be incurred as a result of the offense for that homemaking and child care, based on the rates in the area for comparable services.

(f) Pay an amount equal to the cost of actual funeral and related services.

(g) If the deceased victim could be claimed as a dependent by his or her parent or guardian on the parent's or guardian's federal, state, or local income tax returns, pay an amount equal to the loss of the tax deduction or tax credit. The amount of reimbursement shall be estimated for each year the victim could reasonably be claimed as a dependent.

(h) Pay an amount equal to income actually lost by the spouse, parent, sibling, child, or grandparent of the victim because the family member left his or her employment, temporarily or permanently, to care for the victim because of the injury.

(5) If an offense resulting in bodily injury also results in the death of a victim or serious impairment of a body function of a victim, the court may order up to 3 times the amount of restitution otherwise allowed under this section. As used in this subsection, "serious impairment of a body function of a victim" includes, but is not limited to, 1 or more of the following:

(a) Loss of a limb or use of a limb.

(b) Loss of a hand or foot or use of a hand or foot.

(c) Loss of an eye or use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain damage or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(j) Loss of a body organ.

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

(7) If the victim is deceased or dies, the court shall order that the restitution or remaining restitution be



made to those entitled to inherit from the victim's estate.

(8) The court shall order restitution to the crime victim services commission or to any individuals, partnerships, corporations, associations, governmental entities, or other legal entities that have compensated the victim or the victim's estate for a loss incurred by the victim to the extent of the compensation paid for that loss. The court shall also order restitution for the costs of services provided to persons or entities that have provided services to the victim as a result of the offense. Services that are subject to restitution under this subsection include, but are not limited to, shelter, food, clothing, and transportation. However, an order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person or entity under that order is made. The court shall not order restitution to be paid to a victim or victim's estate if the victim or victim's estate has received or is to receive compensation for that loss, and the court shall state on the record with specificity the reasons for its action.

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

(10) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the juvenile make restitution under this section within a specified period or in specified installments.

(11) If the juvenile is placed on probation, any restitution ordered under this section shall be a condition of that probation. The court may revoke probation if the juvenile fails to comply with the order and if the juvenile has not made a good faith effort to comply with the order. In determining whether to revoke probation, the court shall consider the juvenile's employment status, earning ability, and financial resources, the willfulness of the juvenile's failure to pay, and any other special circumstances that may have a bearing on the juvenile's ability to pay.

(12) Subject to subsection (18), a juvenile who is required to pay restitution and who is not in willful default of the payment of the restitution may at any time petition the court to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the juvenile or his or her immediate family, and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim, the court may modify the method of payment.

(13) An order of restitution entered under this section remains effective until it is satisfied in full. An order of restitution is a judgment and lien against all property of the individual ordered to pay restitution for the amount specified in the order of restitution. The lien may be recorded as provided by law. An order of restitution may be enforced by the prosecuting attorney, a victim, a victim's estate, or any other person or entity named in the order to receive the restitution in the same manner as a judgment in a civil action or a lien.

(14) Notwithstanding any other provision of this section, a juvenile shall not be detained or imprisoned for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court determines that the juvenile has the resources to pay the ordered restitution and has not made a good faith effort to do so.

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

(16) If the court orders a parent to pay restitution under subsection (15), the court shall take into account the parent's financial resources and the burden that the payment of restitution will impose, with due regard to any other moral or legal financial obligations the parent may have. If a parent is required to pay restitution under subsection (15), the court shall provide for payment to be made in specified installments and within a specified period of time.

(17) A parent who has been ordered to pay restitution under subsection (15) may petition the court for a modification of the amount of restitution owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent and if the court also determines that modifying the method of payment will not impose a manifest hardship on the victim.

(18) In each case in which payment of restitution is ordered as a condition of probation, the court shall order any employed juvenile to make regularly scheduled restitution payments. If the juvenile misses 2 or more regularly scheduled payments, the court shall order the juvenile to execute a wage assignment to pay the

restitution. The juvenile caseworker or probation officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. If the restitution was ordered to be made within a specific period of time, the juvenile caseworker or probation officer assigned to the case shall review the case at the end of the specific period of time to determine if the restitution has been paid in full. The final review shall be conducted not less than 60 days before the probationary period expires. If the juvenile caseworker or probation officer determines at any review the restitution is not being paid as ordered, the juvenile caseworker or probation officer shall file a written report of the violation with the court on a form prescribed by the state court administrative office or shall petition the court for a probation violation. The report or petition shall include a statement of the amount of the arrearage, and any reasons for the arrearage known by the juvenile caseworker or probation officer. The juvenile caseworker or probation officer shall immediately provide a copy of the report or petition to the prosecuting attorney. If a petition or motion is filed or other proceedings are initiated to enforce payment of restitution and the court determines that restitution is not being paid or has not been paid as ordered by the court, the court shall promptly take action necessary to compel compliance.

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

(20) The court shall not impose a fee on a victim, victim's estate, or prosecuting attorney for enforcing an order of restitution.

(21) If a person or entity entitled to restitution under this section cannot be located, refuses to claim the restitution within 2 years after the date on which he or she could have claimed the restitution, or refuses to accept the restitution, the restitution to which that person or entity is entitled shall be deposited in the crime victim's rights fund created under section 4 of 1989 PA 196, MCL 780.904, or its successor fund. However, a person or entity entitled to that restitution may claim that restitution any time by applying to the court that originally ordered and collected it. The court shall notify the crime victim services commission of the application and the commission shall approve a reduction in the court's revenue transmittal to the crime victim's rights fund equal to the restitution owed to the person or entity. The court shall use the reduction to reimburse that restitution to the person or entity.

(22) The court may amend an order of restitution entered under this section on a motion by the prosecuting attorney, the victim, or the defendant based upon new information related to the injury, damages, or loss for which the restitution was ordered.

(23) A court that receives notice that a defendant who has an obligation to pay restitution under this section has declared bankruptcy shall forward a copy of that notice to the prosecuting attorney. The prosecuting attorney shall forward the notice to the victim at the victim's last known address.

(24) If the victim is a minor, the order of restitution shall require the defendant to pay to a parent of the victim an amount that is determined to be reasonable for any of the following that are actually incurred or reasonably expected to be incurred by the parent as a result of the crime:

- (a) Homemaking and child care expenses.
- (b) Income loss not ordered to be paid under subsection (4)(h).
- (c) Mileage.
- (d) Lodging or housing.
- (e) Meals.
- (f) Any other cost incurred in exercising the rights of the victim or a parent under this act.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 121, Eff. May 1, 1996;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2009, Act 28, Eff. July 1, 2009;—Am. 2013, Act 139, Imd. Eff. Oct. 22, 2013.

**Compiler's note:** Enacting section 1 of Act 28 of 2009 provides:

"Enacting section 1. This amendatory act takes effect July 1, 2009, and applies only to crimes committed on and after that date."

#### **780.794a Allocation of payment from juveniles.**

Sec. 44a. (1) If a juvenile is subject to any combination of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments arising out of the same criminal proceeding, money collected from that juvenile for the payment of fines, costs, restitution, assessments, probation or parole supervision fees, or other payments ordered to be paid in that proceeding shall be allocated as provided in this section. If a person is subject to fines, costs, restitution, assessments, probation or parole supervision fees, or other payments in more than 1 proceeding in a court and if a person making a payment on the fines, costs, restitution, assessments, probation or parole supervision fees, or other payments does not indicate the

proceeding for which the payment is made, the court shall first apply the money paid to a proceeding in which there is unpaid restitution to be allocated as provided in this section.

(2) Except as otherwise provided in this subsection, if a juvenile is subject to payment of victim payments and any combination of other fines, costs, assessments, probation or parole supervision fees, or other payments, 50% of each payment collected by the court from that juvenile shall be applied to payment of victim payments, and the balance shall be applied to payment of fines, costs, supervision fees, and other assessments or payments. If a person making a payment indicates that the payment is to be applied to victim payments, or if the payment is received as a result of a wage assignment under section 44 or from the department of corrections, sheriff, department of human services, or county juvenile agency under section 46b, the payment shall first be applied to victim payments. If any fines, costs, supervision fees, or other assessments or payments remain unpaid after all of the victim payments have been paid, any additional money collected shall be applied to payment of those fines, costs, supervision fees, or other assessments or payments. If any victim payments remain unpaid after all of the fines, costs, supervision fees, or other assessments or payments have been paid, any additional money collected shall be applied to payment of those victim payments.

(3) In cases involving prosecutions for violations of state law, money allocated under subsection (2) for payment of fines, costs, probation and parole supervision fees, and assessments or payments other than victim payments shall be applied in the following order of priority:

(a) Payment of the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j.

(b) Payment of other costs.

(c) Payment of fines.

(d) Payment of probation or parole supervision fees.

(e) Payment of assessments and other payments, including reimbursement to third parties who reimbursed a victim for his or her loss.

(4) In cases involving prosecutions for violations of local ordinances, money allocated under subsection (2) for payment of fines, costs, and assessments or payments other than victim payments shall be applied in the following order of priority:

(a) Payment of the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j.

(b) Payment of fines and other costs.

(c) Payment of assessments and other payments.

(5) As used in this section, "victim payment" means restitution ordered to be paid to the victim or the victim's estate, but not to a person who reimbursed the victim for his or her loss; or an assessment ordered under section 5 of 1989 PA 196, MCL 780.905.

**History:** Add. 2000, Act 503, Eff. June 1, 2001;—Am. 2003, Act 98, Eff. Oct. 1, 2003;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.795 Factors in determining order of restitution by juvenile.**

Sec. 45. (1) In determining the amount of restitution to order under section 44, the court shall consider the amount of the loss sustained by any victim as a result of the offense. In determining whether to order the juvenile's supervisory parent to pay restitution under section 44(15), the court shall consider the financial resources of the juvenile's supervisory parent and the other factors specified in section 44(16).

(2) The court may order the person preparing a report for the purpose of disposition to obtain information pertaining to the factors set forth in subsection (1). That person shall include the information collected in the disposition report or in a separate report, as the court directs.

(3) The court shall disclose to the juvenile, the juvenile's supervisory parent, and the prosecuting attorney all portions of the disposition or other report pertaining to the matters described in subsection (1).

(4) Any dispute as to the proper amount or type of restitution shall be resolved by the court by a preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the prosecuting attorney. The burden of demonstrating the financial resources of the juvenile's supervisory parent and the other factors specified in section 44(16) shall be on the supervisory parent.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 562, Eff. June 1, 1997.

#### **780.795a Early termination of probation of juvenile; notice to victim.**

Sec. 45a. If a juvenile is sentenced to probation with a condition for the protection of the victim and if requested by the victim, the court shall notify the victim by mail if the court orders that the probation be

terminated earlier than previously ordered.

**History:** Add. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.796 Additional notice to victim; rights of victim in further proceedings or new trial.**

Sec. 46. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the juvenile filed an appeal of his or her adjudication, conviction, disposition, or sentence or the prosecuting attorney filed an appeal.

(b) Whether the juvenile has been ordered released on bail or other recognizance pending the disposition of the appeal. If the prosecuting attorney is notified that the juvenile has been ordered released on bail or other recognizance pending disposition of the appeal, the prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecuting attorney is notified of the order.

(c) The time and place of any appellate court oral arguments and any changes in the time or place of those arguments.

(d) The result of the appeal. If the disposition or conviction is ordered reversed, the sentence is vacated, the case is remanded for a new trial, or the prosecuting attorney's appeal is denied, and if the prosecuting attorney has filed the appropriate notice with the appellate court, the appellate court shall expedite delivery of the relevant document to the prosecuting attorney's office by any means reasonably calculated to give the prosecuting attorney prompt notice. The prosecuting attorney shall use any means reasonably calculated to give the victim notice of that order within 24 hours after the prosecuting attorney is notified of the order.

(2) If the prosecuting attorney is not successful in notifying the victim of an event described in subsection (1) within the period set forth in that subsection, the prosecuting attorney shall notify the victim of that event as soon as possible by any means reasonably calculated to give the victim prompt actual notice.

(3) The prosecuting attorney shall provide the victim with a brief explanation in plain English of the appeal process, including the possible dispositions.

(4) If the case is returned to the court for further proceedings or a new trial, the victim has the same rights as previously requested during the proceedings that led to the appeal.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.796a Notice to victim of juvenile's application to have conviction or adjudication for certain offenses set aside; "assaultive crime" and "serious misdemeanor" defined.**

Sec. 46a. (1) If a juvenile applies to have a conviction for an assaultive crime or serious misdemeanor or an adjudication for an offense that if committed by an adult would be an assaultive crime or a serious misdemeanor set aside under section 18e of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18e, and the prosecuting attorney knows the victim's name, the prosecuting attorney shall give the victim of the offense written notice of the application and forward a copy of the application to the 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 proceeding under section 18e of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18e, concerning that adjudication and make a written or oral statement.

(2) As used in this section:

(a) "Assaultive crime" means that term as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

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

**History:** Add. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

#### **780.796b Deductions and payments.**

Sec. 46b. (1) If a juvenile who has been sentenced to the department of corrections is ordered to pay restitution under section 44, and if the juvenile receives more than \$50.00 in a month, the department of corrections shall deduct 50% of the amount over \$50.00 received by the juvenile for payment of the restitution. The department of corrections shall promptly send the deducted money to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when the juvenile is paroled, transferred to community programs, or discharged on the maximum sentence.

(2) If a juvenile who has been sentenced to jail is ordered to pay restitution under section 44, and if the juvenile receives more than \$50.00 in a month, the sheriff may deduct 50% of the amount over \$50.00 received by the juvenile for payment of the restitution, and 5% of the amount over \$50.00 received by the juvenile to be retained by the sheriff as an administrative fee. The sheriff shall promptly send the money

deducted for restitution to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when the juvenile is released to probation or discharged on the maximum sentence.

(3) If a juvenile who has been placed in a juvenile facility is ordered to pay restitution under section 44, and if the juvenile receives more than \$50.00 in a month, the department of human services or the county juvenile agency, as applicable, may deduct 50% of the amount over \$50.00 received by the juvenile for payment of the restitution. The department of human services or the county juvenile agency, as applicable, shall promptly send the deducted money to the court or to the crime victim as provided in the order of restitution when it accumulates to an amount that exceeds \$100.00, or when the juvenile is released from the juvenile facility.

(4) The department of corrections, sheriff, department of human services, or county juvenile agency, as applicable, shall notify the juvenile and the court in writing of all deductions and payments made under this section. The requirements of this section remain in effect until all of the restitution has been paid. The department of corrections, sheriff, department of human services, or county juvenile agency shall not enter into any agreement with a juvenile that modifies the requirements of this section. An agreement in violation of this subsection is void.

**History:** Add. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007.

#### **780.797 Profit from sale of recollections of thoughts and feelings with regard to offense; juvenile offense; forfeiture; escrow; distribution of proceeds.**

Sec. 47. (1) A juvenile adjudicated for an offense shall not derive any profit from the sale of any of the following until the victim receives any restitution or compensation ordered for him or her against the juvenile, expenses of detention are paid under subsection (3), and any balance in the escrow account created under subsection (2) is paid under subsection (4):

(a) The juvenile's recollections of or thoughts or feelings about the offense committed by the juvenile.

(b) Memorabilia related to the offense committed by the juvenile.

(c) The juvenile's property if its value has been enhanced or increased by the juvenile's notoriety.

(2) Upon the disposition of a juvenile offense involving a victim, and after notice to all interested parties, an attorney for the county in which the disposition occurred or the attorney general may petition the court in which the disposition occurred to order that the juvenile forfeit all or any part of proceeds received or to be received by the juvenile or the juvenile's representatives or assignees from any of the following:

(a) Contracts relating to the depiction of the offense or the juvenile's recollections, thoughts, or feelings about the offense, in books, magazines, media entertainment, or live entertainment.

(b) The sale of memorabilia relating to the offense.

(c) The sale of property of the juvenile, the value of which has been enhanced or increased by the juvenile's notoriety arising from the crime.

(3) Proceeds ordered forfeited under subsection (2) shall be held in an escrow account for a period of not more than 5 years.

(4) During the existence of an escrow account created under subsection (3), proceeds in the account shall be distributed in the following priority to satisfy the following:

(a) An order of restitution entered under section 44.

(b) Any civil judgment in favor of the victim against the juvenile.

(c) Any reimbursement for detention ordered under section 18 of chapter XA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(d) Fines, costs, and other assessments ordered against the juvenile.

(5) A balance remaining in an escrow account created under subsection (3) at the end of the escrow period shall be paid to the crime victim's rights fund created under section 4 of 1989 PA 196, MCL 780.904.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

#### **780.798 Notice to victim by court, department of human services, county juvenile agency, sheriff, department of corrections, or prosecuting attorney.**

Sec. 48. (1) Upon the victim's written request, the court or the department of human services or county juvenile agency, as applicable, shall make a good faith effort to notify the victim before any of the following occurs:

(a) The juvenile is dismissed from court jurisdiction or discharged from commitment to the department of human services or county juvenile agency.

(b) The juvenile is transferred from a juvenile facility to any other juvenile facility.

(c) The juvenile has his or her name legally changed while under the court's jurisdiction or within 2 years



after discharge from the court's jurisdiction.

(d) The juvenile is detained for having committed an act which, if committed by an adult, would be a criminal violation.

(2) If the court, department of human services, or county juvenile agency is not successful in notifying the victim before an event described in subsection (1)(a), (b), or (c) occurs, it shall notify the victim as soon as possible after that event occurs.

(3) Upon the victim's written request, the department of human services, county juvenile agency, or court shall give to the victim notice of a juvenile's escape from a secure detention or treatment facility. A victim who requests notice of an escape shall be given immediate notice of the escape by any means reasonably calculated to give prompt actual notice.

(4) Upon the victim's written request, the sheriff or the department of corrections shall mail to the victim the following, as applicable, about a juvenile who has been sentenced to imprisonment under the jurisdiction of the sheriff or the department for the offense against that victim:

(a) Within 30 days after the request, notice of the sheriff's calculation of the juvenile's earliest release date or the department's calculation of the juvenile's earliest parole eligibility, with all potential good time or disciplinary credits considered, if the sentence of imprisonment exceeds 90 days.

(b) Notice of the juvenile's transfer or pending transfer to a minimum security facility and the facility's address.

(c) Notice of the juvenile's release or pending release in a community residential program, under furlough, or any other transfer to community status; any transfer from 1 community residential program or electronic monitoring program to another; or any transfer from a community residential program or electronic monitoring program to a state correctional facility.

(d) Notice of the escape of the juvenile accused, convicted, or imprisoned for committing an offense against the victim.

(e) Notice of both of the following:

(i) The victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the juvenile's release on parole during the time the juvenile's release on parole or commutation of sentencing is being considered.

(ii) To address the parole board and to present exhibits or other photographic or documentary information to the parole board including at a commutation hearing.

(f) Notice of the decision of the parole board, or any other panel having authority over the juvenile's release on parole, after a parole review.

(g) Notice of the release of a juvenile 90 days before the date of the juvenile's discharge from prison, unless the notice has been otherwise provided under this article.

(h) Notice of a public hearing under section 44 of 1953 PA 232, MCL 791.244, regarding a reprieve, commutation, or pardon of the juvenile's sentence by the governor.

(i) Notice that a reprieve, commutation, or pardon has been granted or denied upon conclusion of a public hearing.

(j) Notice that a juvenile has had his or her name legally changed while on parole or within 2 years after release from parole.

(k) Notice that the juvenile, including a parolee, has died. However, the notification requirements of this subdivision apply to the death of a parolee only if the department is aware that the parolee has died.

(5) A victim's address and telephone number maintained by a sheriff or the department of corrections upon a request for notice under subsection (4) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be released.

(6) As provided in subsection (7) or (8), a victim who requests notice of the escape and the prosecuting attorney who filed the petition alleging the offense for which the juvenile is accused, detained, or under sentence shall be given immediate notice of the juvenile's escape. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(7) If the escape occurs before the sentence is executed or before the juvenile is delivered to the department of human services, county juvenile agency, sheriff, or the department of corrections, the person in charge of the agency in charge of the juvenile's detention shall give notice of the escape to the prosecuting attorney, who shall then give notice of the escape to a victim who requested notice.

(8) If the juvenile is confined under sentence, the notice of escape shall be given to the victim and the prosecuting attorney by the chief administrator of the place in which the juvenile is confined.

(9) Upon the victim's request, the prosecuting attorney shall give the victim notice of a review hearing conducted under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18. The victim has the right to make a statement at the hearing or submit a written statement for use at the hearing, or

both.

**History:** Add. 1988, Act 22, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 105, Eff. Apr. 1, 1996;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2012, Act 564, Eff. Mar. 28, 2013.

**Compiler's note:** For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

#### **780.798a Notification by court.**

Sec. 48a. The court may perform the notification functions delegated to the prosecuting attorney under this article if both of the following circumstances exist:

(a) The prosecuting attorney allows the court to perform those functions pursuant to a written agreement.

(b) The court performed those functions before the effective date of the amendatory act that added this section.

**History:** Add. 1993, Act 341, Eff. May 1, 1994.

#### **780.799 Providing victim with certified copy of order of adjudicative hearing.**

Sec. 49. If requested, a victim shall be provided with a certified copy of the order of an adjudicative hearing for purposes of obtaining relief pursuant to section 2913 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2913 of the Michigan Compiled Laws.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.800 Cause of action for money damages against state or local government not created.**

Sec. 50. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, or a municipality or any of their agencies, instrumentalities, or employees.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.801 Effect of failure to provide right, privilege, or notice to victim.**

Sec. 51. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the juvenile to seek to have any proceeding set aside.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.

#### **780.802 Effective date of article; applicability.**

Sec. 52. (1) This article shall take effect June 1, 1988.

(2) This article shall apply only to offenses committed on or after June 1, 1988.

**History:** Add. 1988, Act 22, Eff. June 1, 1988.