CHAPTER 780. CRIMINAL PROCEDURE

UNIFORM CRIMINAL EXTRADITION ACT
Act 144 of 1937

AN ACT relative to and to make uniform the procedure on interstate extradition; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

History: 1937, Act 144, Eff. Oct. 29, 1937.

The People of the State of Michigan enact:

780.1 Uniform criminal extradition act; definitions.

Sec. 1. Definitions. Where appearing in this act, the term "governor" includes any person performing the functions of governor by authority of the law of this state. The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state. The term "state," referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.1.

Compiler's note: The catchlines following the act section numbers were incorporated as part of the act as enacted.

780.2 Fugitives from justice; duty of governor.

Sec. 2. Fugitives from justice; duty of governor. Subject to the provisions of this act, the provisions of the constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.2.

780.3 Form of demand.

Sec. 3. Form of demand. No demand for extradition of a person charged with a crime in another state shall be recognized by the governor unless in writing, accompanied by the following papers:

(1) Governor's requisition under the seal of the state;

(2) Prosecutor's application for requisition for the return of a person charged with crime, wherein shall be stated:

(a) The name of the person so charged;

(b) The nature of the crime;

(c) The approximate time, place and circumstances of its commission;

(d) That the accused was present in demanding state at the time of commission of alleged crime;

(e) That he thereafter fled from the state;

(f) The state in which he is believed to be, including the location of the accused therein, at the time the application is made; certifying that, in the opinion of the said prosecuting attorney, the ends of justice require the arrest and return of the accused to the demanding state for trial, and that the proceeding is not instituted to enforce a private claim;

(3) Verification by affidavit of said application, which shall be accompanied by certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, and the warrant issued thereupon, stating the offense with which the accused is charged, or of the judgment of conviction or of a sentence imposed in execution thereof, together with a statement by executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. Affidavits or documents as the prosecutor may deem proper may be submitted with such application;

(4) Executive warrant, under the seal of the state, authorizing agent, therein named, to receive the person demanded;

(5) The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment or conviction or sentence must be authenticated by the executive authority making the demand.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.3.

780.3a Extradition; persons not present in demanding state at time of commission of crime.

Sec. 3a. The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this act not otherwise inconsistent shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom, and the requirements contained in subdivisions (d) and (e) of section 3 of this act shall not apply to such cases.

History: Add. 1939, Act 81, Eff. Sept. 29, 1939;—Am. 1947, Act 143, Imd. Eff. May 29, 1947;—CL 1948, 780.3a.

780.4 Investigation by governor.

Sec. 4. Governor may investigate case. When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.4.

780.5 Extradition; persons imprisoned or awaiting trial in another state or who have left demanding state under compulsion.

Sec. 5. Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion. When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in section 22 of this act with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.5.

780.6 Governor's warrant; issuance; recitation of facts; revocation of bail.

Sec. 6. If the governor decides that the demand should be complied with, he or she shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person who the governor determines is fit to entrust with the execution of the warrant. The warrant shall substantially recite the facts necessary to the validity of its issuance. If the person was released on bail, the court shall immediately revoke bail and shall not release the person on bail but shall detain the person subject only to habeas corpus review.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.6;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

780.7 Governor's warrant; execution, manner and place.

Sec. 7. Manner and place of execution. Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act to the duly authorized agent of the demanding state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.7.

780.8 Arresting officer; authority.

Sec. 8. Authority of arresting officer. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.8.

780.9 Rights of accused persons; writ of habeas corpus, application.

Sec. 9. Rights of accused person; application for writ of habeas corpus. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.9.

780.10 Violation of section; misdemeanor, penalty.

Sec. 10. Penalty for non-compliance with preceding section. Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in wilful disobedience to the last section, shall be guilty of a misdemeanor and, on conviction, shall be fined, not more than 1,000 dollars or be imprisoned not more than 6 months or both.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.10.

780.11 Confinement in jail; necessary circumstances.

Sec. 11. Confinement in jail when necessary. The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping: Provided, however, That such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.11.

780.12 Arrest prior to requisition.

Sec. 12. Arrest prior to requisition. Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under section 3a, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 3a, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

History: 1937, Act 144, Eff. Oct. 29, 1937;—Am. 1939, Act 81, Eff. Sept. 29, 1939;—CL 1948, 780.12.

780.13 Arrest without warrant.

Sec. 13. Arrest without a warrant. The arrest of a person may be lawfully made also by any peace officer without a warrant upon reasonable information that the accused stands charged in the courts of a state with a

crime punishable by death or imprisonment for a term exceeding 1 year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.13.

780.14 Commitment to await requisition; bail.

Sec. 14. Commitment to await requisition; bail. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under section 3a, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding 30 days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

History: 1937, Act 144, Eff. Oct. 29, 1937;—Am. 1939, Act 81, Eff. Sept. 29, 1939;—CL 1948, 780.14.

780.15 Bail; type of cases; condition of bond.

Sec. 15. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death, by life imprisonment, or by imprisonment for 20 years or more under the laws of the state in which it was committed or is for escaping from custody or confinement, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in an amount that, after reviewing the person's criminal history, the judge or magistrate considers proper, conditioned for the person's appearance before the court at a time specified in the bond, and for the person's surrender, to be arrested upon the warrant of the governor of this state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.15;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

780.16 Discharge or recommitment of accused; additional periods; limitation.

Sec. 16. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge the accused or may recommit the accused for additional periods not to exceed a total extension of 60 days, or a judge or magistrate may again take bail for the accused's appearance and surrender, as provided in section 15, but within a period not to exceed 60 days after the date of any new bond.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.16;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

780.17 Forfeiture of bail.

Sec. 17. Forfeiture of bail. If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.17.

780.18 Persons under criminal prosecution in state; applicability of restrictions on commitment.

Sec. 18. If a criminal prosecution has been instituted against a person under the laws of this state and is still pending, the governor may surrender the person on demand of the executive authority of another state or hold the person until he or she has been tried and discharged or convicted and punished in this state. If a criminal prosecution has been instituted under the laws of this state against a person charged under section 13, the restrictions on the length of commitment specified in sections 14 and 16 are not applicable during the period that the criminal prosecution is pending in this state.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.18;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

780.19 Guilt or innocence of accused when inquired into.

Sec. 19. Guilt or innocence of the accused, when inquired into. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.19.

780.20 Governor's warrant; recall or issuance of another.

Sec. 20. Governor may recall warrant or issue alias. The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.20.

780.21 Fugitives from state; duty of governor.

Sec. 21. Fugitives from this state; duty of governor. Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state, from the executive authority of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.21.

780.22 Application for issuance of requisition; contents.

Sec. 22. Application for issuance of requisition; by whom made; contents.

1. When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein, at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

2. When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by 2 certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he or they shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and 1 of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.22.

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.

780.23 Costs and expenses.

Sec. 23. In all extradition cases the expenses therefor shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state on whose governor the requisition is made, and all other necessary and reasonable expenses in returning such prisoner.

History: 1937, Act 144, Eff. Oct. 29, 1937;—Am. 1947, Act 247, Imd. Eff. June 20, 1947;—CL 1948, 780.23.

780.23a Extradition costs; payment.

Sec. 23a. The court may order an individual who is extradited to this state for committing a crime and who is convicted of a crime to pay the actual and reasonable costs of that extradition, including, but not limited to, all of the following:

(a) Transportation costs.

(b) The salaries or wages of law enforcement and prosecution personnel, including overtime pay, for processing the extradition and returning the individual to this state.

History: Add. 2002, Act 584, Eff. Jan. 1, 2003.

780.24 Immunity from service of process in certain civil actions.

Sec. 24. Immunity from service of process in certain civil actions. A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.24.

780.25 Written waiver of extradition proceedings.

Sec. 25. Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his or her bail, probation, or parole may waive the issuance and service of the warrant provided for in sections 6 and 7 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing that states that he or she consents to return to the demanding state. However, before the waiver is executed or subscribed by the person, the judge shall inform the person of his or her rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 9.

When a person's consent has been duly executed, it shall promptly be forwarded to and filed in the office of the governor of this state. The judge shall direct the officer having the person in custody to promptly deliver the person to the accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to that agent or agents a copy of the person's consent.

If a waiver is executed, the judge shall remand the person to custody without bail. The order shall direct the officer having the person in custody to deliver the person to the duly authorized agent of the demanding state together with a copy of the order and the waiver.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.25;—Am. 2002, Act 584, Eff. Jan. 1, 2003.

780.25a Delivering individual to demanding state without governor's warrant.

Sec. 25a. Notwithstanding section 3, a law enforcement agency in this state holding an individual who is alleged to have broken the terms of his or her probation, parole, bail, or other release in the demanding state shall immediately deliver the individual to the authorized agent of the demanding state without the requirement of a governor's warrant if all of the following have occurred:

(a) The individual has signed a prior waiver of extradition as a term of his or her current probation, parole, bail, or other release in the demanding state.

(b) The law enforcement agency holding the individual has received a copy of the prior waiver of extradition signed by the individual and confirmed by the demanding agency.

(c) The law enforcement agency has received photographs, fingerprints, or other evidence that properly identify the individual who signed the waiver.

History: Add. 1994, Act 380, Imd. Eff. Dec. 27, 1994.

780.26 Non-waiver by state.

Sec. 26. Non-waiver by this state. Nothing in this act contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.26.

780.27 No right of asylum.

Sec. 27. No right of asylum. No immunity from other criminal prosecutions while in this state. After a person has been brought back to this state by, or after waiver of extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.27.

780.28 Interpretation of act.

Sec. 28. Interpretation. The provisions of this act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.28.

780.31 Uniform criminal extradition act; short title.

Sec. 31. This act may be cited as the "uniform criminal extradition act".

History: 1937, Act 144, Eff. Oct. 29, 1937;—CL 1948, 780.31.

UNIFORM RENDITION OF ACCUSED PERSONS ACT
Act 281 of 1968

AN ACT to enact the uniform rendition of accused persons act.

History: 1968, Act 281, Eff. Nov. 15, 1968.

The People of the State of Michigan enact:

780.41 Uniform rendition of accused persons act; short title.

Sec. 1. This act may be cited as the "uniform rendition of accused persons act".

History: 1968, Act 281, Eff. Nov. 15, 1968.

780.42 Arrest of accused person illegally in state; warrant, procedure.

Sec. 2. (1) If a person who has been charged with crime in another state and released from custody prior to final judgment, including the final disposition of any appeal, is alleged to have violated the terms and conditions of his release, and is present in this state, a designated agent of the court, judge or magistrate which authorized the release may request the issuance of a warrant for the arrest of the person and an order authorizing his return to the demanding court, judge or magistrate. Before the warrant is issued, the designated agent shall file, with a judicial officer of this state having authority under the laws of this state to issue warrants for the arrest of persons charged with crime, the following documents:

(a) An affidavit stating the name and whereabouts of the person whose removal is sought, the crime with which the person was charged, the time and place of the crime charged, and the status of the proceedings against him.

(b) A certified copy of the order or other document specifying the terms and conditions under which the person was released from custody.

(c) A certified copy of an order of the demanding court, judge or magistrate stating the manner in which the terms and the conditions of the release have been violated and designating the affiant its agent for seeking removal of the person.

(2) Upon initially determining that the affiant is a designated agent of the demanding court, judge or magistrate, and that there is probable cause for believing that the person whose removal is sought has violated the terms or conditions of his release, the judicial officer shall issue a warrant to a law enforcement officer of this state for the person's arrest.

(3) The judicial officer shall notify the prosecuting attorney of his action and shall direct him to investigate the case to ascertain the validity of the affidavits and documents required by subsection (1) and the identity and authority of the affiant.

History: 1968, Act 281, Eff. Nov. 15, 1968.

780.43 Hearing; right to counsel; waiver of hearing; condition of release.

Sec. 3. (1) The person whose removal is sought shall be brought before the judicial officer immediately upon arrest pursuant to the warrant; whereupon the judicial officer shall set a time and place for hearing, and shall advise the person of his right to have the assistance of counsel, to confront the witnesses against him, and to produce evidence in his own behalf at the hearing.

(2) The person whose removal is sought may at this time in writing waive the hearing and agree to be returned to the demanding court, judge or magistrate. If a waiver is executed, the judicial officer shall issue an order pursuant to section 3.

(3) The judicial officer may impose conditions of release authorized by the laws of this state which will reasonably assure the appearance at the hearing of the person whose removal is sought.

History: 1968, Act 281, Eff. Nov. 15, 1968.

780.44 Hearing; report of investigation; order authorizing return of accused.

Sec. 4. The prosecuting attorney shall appear at the hearing and report to the judicial officer the results of his investigation. If the judicial officer finds that the affiant is a designated agent of the demanding court, judge or magistrate and that the person whose removal is sought was released from custody by the demanding court, judge or magistrate, and that the person has violated the terms or conditions of his release, the judicial officer shall issue an order authorizing the return of the person to the custody of the demanding court, judge or magistrate forthwith.

History: 1968, Act 281, Eff. Nov. 15, 1968.

780.45 Construction of act.

Sec. 5. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

History: 1968, Act 281, Eff. Nov. 15, 1968.

JURISDICTION OVER GREAT LAKES WATERS
Act 191 of 1965

AN ACT to grant cities and incorporated villages jurisdiction as to Great Lakes waters or connecting waters adjoining their boundaries.

History: 1965, Act 191, Imd. Eff. July 15, 1965.

The People of the State of Michigan enact:

780.51 Municipalities; jurisdiction.

Sec. 1. A city or incorporated village, having a boundary running to the shoreline of any of the Great Lakes or connecting waters, through its peace officers, with or without a pertinent ordinance, may exercise concurrent jurisdiction as to such waters to enforce any criminal law of this state applicable to the conduct of persons in, on or over such waters which extend 1/2 mile lakeward from such boundary, but not beyond any interstate or international boundary.

History: 1965, Act 191, Imd. Eff. July 15, 1965.

780.52 Construction of act.

Sec. 2. This act shall not be construed as granting any authority to regulate or control the erection, maintenance or destruction of any structure in, on or over such waters as may be covered by state law, or to grant a power to alter any federal or state law, rule or regulation pertaining to navigation, hunting or fishing.

History: 1965, Act 191, Imd. Eff. July 15, 1965.

BAIL FOR TRAFFIC OFFENSES OR MISDEMEANORS
Act 257 of 1966

AN ACT to provide for bail of persons arrested for or accused of criminal offenses involving traffic offenses or misdemeanors; by prescribing the conditions under which security is required; by prescribing the kind and amount of security required; by prescribing the conditions under which security may be forfeited and the manner of forfeiture; by prescribing penalties for violations; and to repeal certain acts and parts of acts.

History: 1966, Act 257, Eff. Mar. 10, 1967.

The People of the State of Michigan enact:

780.61 Bail for traffic offenses or misdemeanors; definitions.

Sec. 1. As used in this act:

(a) "Security" means that which is required to be pledged to insure the payment of bail.

(b) "Surety" means one who executes a bail bond and binds himself to pay the bail if the person in custody fails to comply with all conditions of the bail bond.

History: 1966, Act 257, Eff. Mar. 10, 1967.

780.62 Release upon own recognizance; failure to appear, misdemeanor; forfeiture.

Sec. 2. When from all the circumstances involving traffic offenses in violation of state law, township traffic ordinances or municipal traffic ordinances or any misdemeanor offense, the court is of the opinion that the accused will appear as required either before or after conviction the accused may be released on his own recognizance. A failure to appear as required by such recognizance is a misdemeanor and any obligated sum fixed in the recognizance shall be forfeited and collected in accordance with section 6.

This section shall be liberally construed to effectuate the purpose of relying upon criminal sanctions instead of financial loss to assure the appearance of the accused.

History: 1966, Act 257, Eff. Mar. 10, 1967.

780.63 Failure to appear; arrest.

Sec. 3. Upon failure to comply with any condition of a bail bond or recognizance the court having jurisdiction at the time of such failure, in addition to any other action provided by law, may issue a warrant for the arrest of the person at liberty on bail or his own recognizance.

History: 1966, Act 257, Eff. Mar. 10, 1967.

780.64 Amount of bail; surrender by defendant of operator's or chauffeur's license as security; receipt; expiration date; extension; written notice; return of license.

Sec. 4. (1) The amount of bail shall be:

(a) Sufficient to assure compliance with the conditions set forth in the bail bond.

(b) Not oppressive.

(c) Commensurate with the nature of the offense charged.

(d) Considerate of the past criminal acts and conduct of the defendant.

(e) Considerate of the financial ability of the accused.

(f) Uniform whether the bail bond be executed by the person for whom bail has been set or by a surety.

(2) If a person is charged with an offense punishable by a fine only, the amount of the bail shall not exceed double the amount of the maximum penalty.

(3) If a person has been convicted of an offense and only a fine has been imposed, the amount of the bail shall not exceed double the amount of the fine.

(4) If a person is arrested for an ordinance violation or a misdemeanor punishable by imprisonment for not more than 1 year or a fine, or both, and if the defendant's operator's or chauffeur's license is not expired, suspended, revoked, or canceled, then the court may require the defendant, in place of other security for the defendant's appearance in court for trial or sentencing or, in addition, to release of the defendant on personal recognizance, to surrender to the court his or her operator's or chauffeur's license. The court shall issue to the defendant a receipt for the license as provided in section 311a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.311a of the Michigan Compiled Laws. If the trial date is set at the arraignment, the court shall specify on the receipt the date on which the defendant is required to appear for trial. If a trial date is not set at the arraignment, the court shall specify on the receipt a date on which the receipt expires. By written notice, which shall instruct a person who has surrendered a license as security under this subsection to attach the notice to the receipt issued under this subsection, the court may extend the

expiration date of the receipt, as needed, to secure the defendant's appearance for trial and sentencing. Upon its attachment to the receipt, the written notice shall be considered a part of the receipt for purposes of determining the expiration date. At the conclusion of the trial or imposition of sentence, as applicable, the court shall return the license to the defendant unless other disposition of the license is authorized by law.

History: 1966, Act 257, Eff. Mar. 10, 1967;—Am. 1969, Act 221, Imd. Eff. Aug. 6, 1969;—Am. 1983, Act 57, Eff. Mar. 29, 1984.

780.65 Increase or reduction in amount of bail; notices; alteration of conditions of bond.

Sec. 5. (1) Upon application by the state or a local unit of government or the defendant the court before which the proceeding is pending may increase or reduce the amount of bail or may alter the conditions of the bail bond.

(2) Reasonable notice of the application by the defendant shall be given to the state.

(3) Reasonable notice of the application by the state or local unit of government shall be given to the defendant, except as provided in subsection (4).

(4) Upon verified application by the state or local unit of government stating facts or circumstances constituting a breach or a threatened breach of any of the conditions of the bail bond the court may issue a warrant commanding any peace officer to bring the defendant without unnecessary delay before the court for a hearing on the matters set forth in the application. At the conclusion of the hearing the court may enter an order authorized by subsection (1).

History: 1966, Act 257, Eff. Mar. 10, 1967.

780.66 Bail deposit; moneys; minimum amount; procedure.

Sec. 6. (1) The person for whom bail has been set shall execute the bail bond and deposit with the clerk of the court before which the proceeding is pending a sum of money equal to 10% of the bail but at least $10.00. A defendant who personally makes the deposit shall be notified that upon the defendant's conviction the defendant's deposit may be used to collect a fine, costs, restitution, assessment, or other payment as provided in subsection (8).

(2) Upon depositing this sum, the person shall be released from custody subject to the conditions of the bail bond.

(3) Once bail has been given and a charge is pending or is thereafter filed in or transferred to a court of competent jurisdiction, the latter court shall continue the original bail in that court subject to section 5.

(4) After conviction, the court may order that the original bail stand as bail pending appeal or increase or reduce bail.

(5) After the entry of an order by the trial court allowing bail pending appeal, either party may apply to the reviewing court having jurisdiction or to a justice thereof sitting in vacation for an order increasing or decreasing the amount of bail or allowing bail pending appeal.

(6) When the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause, the clerk of the court shall return to the accused 90% of the sum that had been deposited, except as provided in subsection (8), and shall retain as bail bond costs 10% of the amount deposited, except that if the accused has not been convicted of the charge, the entire sum deposited shall be returned to the accused.

(7) If the accused does not comply with the conditions of the bail bond, the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of the order of forfeiture shall be mailed promptly by the court to the accused at his or her last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture, or within that period satisfy the court that appearance and surrender by the accused is impossible and without his fault, the court shall enter judgment for the state or local unit of government against the accused for the amount of the bail and costs of the court proceedings. The deposit made in accordance with subsection (1) shall be applied to the payment of costs. If any amount of the deposit remains after the payment of costs, it shall be applied to payment of the judgment and transferred to the treasury of the unit of government in which the court is located. The balance of the judgment may be enforced and collected in the same manner as a judgment entered in a civil action.

(8) If the court ordered a defendant who has made a cash deposit in accordance with subsection (1) to pay a fine, costs, restitution, assessment, or other payment, the court shall order the fine, costs, restitution, assessment, or other payment collected out of the cash deposit. If a person is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in section 22 of chapter XV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 775.22 of the Michigan Compiled Laws.

History: 1966, Act 257, Eff. Mar. 10, 1967;—Am. 1993, Act 347, Eff. May 1, 1994.

780.67 Bail bond in lieu of bail deposit; security required; procedure.

Sec. 7. (1) In lieu of the bail deposit provided for in section 6, a person for whom bail has been set may execute the bail bond with or without sureties. The bond may be secured by 1 or more of the following:

(a) Depositing with the clerk of the court an amount equal to the required bail in cash or stocks or bonds in which trustees are authorized to invest trust funds under the laws of this state. A defendant who personally makes the cash deposit shall be notified that upon the defendant's conviction the defendant's cash deposit may be used to collect a fine, costs, restitution, assessment, or other payment as provided in subsection (7).

(b) Real estate situated in this state with unencumbered equity not exempt and owned by the accused or sureties worth double the amount of bail set in the bond.

(2) If the bail bond is secured by cash or stocks and bonds, the accused or sureties shall file with the bond a sworn schedule containing all of the following:

(a) A list of the stocks or bonds deposited, describing each in sufficient detail that it may be identified.

(b) The market value of each stock or bond.

(c) The total market value of the stocks or bonds listed.

(d) A statement that the affiant is the sole owner of the stocks or bonds listed and that they are not exempt from execution.

(e) A statement that the stocks or bonds have not previously been used or accepted as bail in this state during the 12 months preceding the date of the bail bond.

(f) A statement that the stocks or bonds are security for the appearance of the accused in accordance with the conditions of the bail bond.

(3) If the bail bond is secured by real estate, the accused or sureties shall file with the bond a sworn schedule containing all of the following:

(a) A legal description of the real estate.

(b) A description of any encumbrance on the real estate, including the amount and the holder of each encumbrance.

(c) The market value of the unencumbered equity owned by the affiant.

(d) A statement that the affiant is the sole owner of the unencumbered equity and that it is not exempt from execution.

(e) A statement that the real estate has not previously been used or accepted as bail in this state during the 12 months preceding the date of the bail bond.

(f) A statement that the real estate is security for the appearance of the accused in accordance with the conditions of the bail bond.

(4) The sworn schedule constitutes a material part of the bail bond. The affiant commits perjury if in the sworn schedule the affiant makes a false statement he or she does not believe to be true. The affiant shall be prosecuted and punished accordingly or may be punished for contempt.

(5) A certified copy of the bail bond and schedule of real estate shall be filed immediately by the court in the office of the register of deeds of the county in which the real estate is situated. The state shall have a lien on the real estate from the time copies are filed in the office of the register of deeds. The register of deeds shall enter, index and record the bail bonds and schedules without requiring any advance fee. The fee shall be taxed as costs in the proceeding and paid out of the costs when collected.

(6) When the conditions of the bail bond have been performed and the accused has been discharged from his or her obligations in the cause, the clerk of the court shall return to the accused or his or her sureties the deposit of any cash, stocks, or bonds, except as provided in subsection (7). If the bail bond was secured by real estate, the clerk of the court shall promptly notify in writing the register of deeds and the lien of the bail bond on the real estate shall be discharged.

(7) If the court ordered a defendant who has made a cash deposit according to subsection (1) to pay a fine, costs, restitution, assessment, or other payment, the court shall order the fine, costs, restitution, assessment, or other payment collected out of the cash deposit. If a person is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in section 22 of chapter XV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 775.22 of the Michigan Compiled Laws.

(8) If the accused does not comply with the conditions of the bail bond, the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of the order of forfeiture shall be mailed promptly by the clerk of the court to the accused and his or her sureties at their last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture, or within that period satisfy the court that appearance and surrender by the accused is impossible and without his or her

fault, the court shall enter judgment for the state or local unit of government against the accused and his or her sureties for the amount of the bail and costs of the proceedings.

(9) When judgment is entered in favor of the state or local unit of government on any bail bond the attorney for the local unit of government, the prosecuting attorney or the attorney general shall have execution issued on the judgment promptly and shall deliver the execution to the sheriff to be executed by levy on the cash, stocks or bonds deposited with the clerk of the court or the real estate described in the bail bond schedule. The cash shall be used to satisfy the judgment and costs and shall be paid into the treasury of the unit of government in which the court is located. The stocks, bonds, or real estate shall be sold in the same manner as in execution sales in civil actions. The proceeds of the sale shall be used to satisfy all court costs and prior encumbrances, if any, and a sufficient amount to satisfy the judgment shall be paid into the treasury of the unit of government in which the court is located. The balance shall be returned to the owner. The real estate may be redeemed in the same manner as real estate may be redeemed after judicial or execution sales in civil actions.

(10) A stock, bond, or real estate shall not be used or accepted as bail bond security in this state more than once in any 12-month period.

History: 1966, Act 257, Eff. Mar. 10, 1967;—Am. 1993, Act 347, Eff. May 1, 1994.

780.68 Bail taken by peace officer; release of offender; receipt; deposit with clerk of court.

Sec. 8. When bail has been set by a judicial officer for a particular offense or offender, any sheriff or other peace officer may take bail in accordance with the provisions of section 6 or 7 and release the offender to appear in accordance with the conditions of the bail bond, the notice to appear or the summons. The officer shall give a receipt to the offender for the bail so taken and within a reasonable time deposit such bail with the clerk of the court having jurisdiction of the offense.

History: 1966, Act 257, Eff. Mar. 10, 1967.

780.69 Conditions of bail bonds before conviction.

Sec. 9. (1) If a person is admitted to bail before conviction the conditions of the bail bond shall be that he will:

(a) Appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court.

(b) Submit himself to the orders and process of the court.

(c) Not depart this state without leave.

(2) If the defendant is admitted to bail after conviction the conditions of the bail bond shall be that he will:

(a) Duly prosecute his appeal.

(b) Appear at such time and place as the court may direct.

(c) Not depart this state without leave of the court.

(d) If the judgment is affirmed or the cause reversed and remanded for a new trial, forthwith surrender to the officer from whose custody he was bailed.

History: 1966, Act 257, Eff. Mar. 10, 1967.

780.70 Bail on new trial; increase or reduction pending on trial.

Sec. 10. If the judgment of conviction is reversed and the cause remanded for a new trial the trial court may order that the bail stand pending such trial, or reduce or increase bail.

History: 1966, Act 257, Eff. Mar. 10, 1967.

780.71 Notice of address change.

Sec. 11. A person who has been admitted to bail shall give written notice to the clerk of the court before which the proceeding is pending of any change in his address within 24 hours after the change.

History: 1966, Act 257, Eff. Mar. 10, 1967.

780.72 Persons prohibited from furnishing bail security.

Sec. 12. No attorney-at-law practicing in this state and no official authorized to admit another to bail or to accept bail shall furnish any part of any security for bail in any criminal action or any proceeding nor shall any such person act as surety for any accused admitted to bail.

History: 1966, Act 257, Eff. Mar. 10, 1967.

780.73 Credit for incarceration on bailable offense; limitation.

Sec. 13. Any person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of such offense shall be allowed a credit of $5.00 for each day so incarcerated prior to

conviction except that in no case shall the amount so allowed or credited exceed the amount of the fine.

History: 1966, Act 257, Eff. Mar. 10, 1967.

UNIFORM ACT ON FRESH PURSUIT
Act 189 of 1937

AN ACT to make uniform the law on fresh pursuit and authorizing this state to cooperate with other states therein.

History: 1937, Act 189, Imd. Eff. July 14, 1937.

The People of the State of Michigan enact:

780.101 Uniform act on fresh pursuit; arrest by officer from other state.

Sec. 1. Any member of a duly organized state, county or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest him on the ground that he is believed to have committed a felony in such other state, shall have the same authority to arrest and hold such person in custody, as has any member of any duly organized state, county or municipal peace unit of this state, to arrest and hold in custody a person on the ground that he is believed to have committed a felony in this state.

History: 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.101.

780.102 Uniform act on fresh pursuit; procedure.

Sec. 2. If an arrest is made in this state by an officer of another state in accordance with the provisions of section 1 of this act, he shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.

History: 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.102.

780.103 Section one construed.

Sec. 3. Section 1 of this act shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

History: 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.103.

780.104 State; construction of term.

Sec. 4. For the purpose of this act the word "state" shall include the District of Columbia.

History: 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.104.

780.105 Fresh pursuit; definition.

Sec. 5. The term "fresh pursuit" as used in this act shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

History: 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.105.

780.106 Certified copies of act; executive department of states.

Sec. 6. Upon the passage and approval by the governor of this act it shall be the duty of the secretary of state to certify a copy of this act to the executive department of each of the states of the United States.

History: 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.106.

780.108 Uniform act on fresh pursuit; short title.

Sec. 8. This act may be cited as the "uniform act on fresh pursuit."

History: 1937, Act 189, Imd. Eff. July 14, 1937;—CL 1948, 780.108.

UNIFORM RENDITION OF PRISONERS AS WITNESSES IN CRIMINAL PROCEEDINGS ACT
Act 161 of 1967

AN ACT to provide for the interstate use of prisoners as witnesses in criminal proceedings.

History: 1967, Act 161, Imd. Eff. June 30, 1967.

The People of the State of Michigan enact:

780.111 Uniform rendition of prisoners as witnesses in criminal proceedings act; short title.

Sec. 1. This act shall be known and may be cited as the "uniform rendition of prisoners as witnesses in criminal proceedings act".

History: 1967, Act 161, Imd. Eff. June 30, 1967.

780.112 Uniform rendition of prisoners as witnesses in criminal proceedings act; definitions.

Sec. 2. As used in this act:

(a) "Witness" means a person who is confined in a penal institution in any state and whose testimony is desired in another state in any criminal proceeding or investigation by a grand jury or in any criminal action before a court.

(b) "Penal institutions" includes a jail, prison, penitentiary, house of correction or other place of penal detention.

(c) "State" includes any state of the United States, the district of Columbia, the commonwealth of Puerto Rico, and any territory of the United States.

History: 1967, Act 161, Imd. Eff. June 30, 1967.

780.113 Request of foreign court; certificate of state judge having jurisdiction over prisoner, contents; notice; hearing.

Sec. 3. A judge of a state court of record in another state, which by its laws has made provision for commanding persons confined in penal institutions within that state to attend and testify in this state, may certify (1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (2) that a person who is confined in a penal institution in this state may be a material witness in the proceeding, investigation or action, and (3) that his presence will be required during a specified time. Upon presentation of the certificate to any judge having jurisdiction over the person confined, and upon notice to the attorney general, the judge in this state shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that the prisoner be produced before him at the hearing.

History: 1967, Act 161, Imd. Eff. June 30, 1967.

780.114 Orders directing witness to attend and testify; contents; production of witness.

Sec. 4. If at the hearing the judge determines (1) that the witness may be material and necessary, (2) that his attending and testifying are not adverse to the interests of this state or to the health or legal rights of the witness, (3) that the laws of the state in which he is requested to testify will give him protection from arrest and the service of civil and criminal process because of any act committed prior to his arrival in the state under the order, and (4) that as a practical matter the possibility is negligible that the witness may be subject to arrest or to the service of civil or criminal process in any state through which he will be required to pass, the judge shall issue an order, with a copy of the certificate attached, (a) directing the witness to attend and testify, (b) directing the person having custody of the witness to produce him, in the court where the criminal action is pending, or where the grand jury investigation is pending, at a time and place specified in the order, and (c) prescribing such conditions as the judge shall determine.

History: 1967, Act 161, Imd. Eff. June 30, 1967.

780.115 Orders; contents; custodial safeguards; expenses; time effective.

Sec. 5. The order to the witness and to the person having custody of the witness shall provide for the return of the witness at the conclusion of his testimony, proper safeguards on his custody, and proper financial reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness, and may prescribe such other conditions as the judge thinks proper or necessary. The order shall not become effective until the judge of the state requesting the witness enters an order directing compliance with the conditions prescribed.

History: 1967, Act 161, Imd. Eff. June 30, 1967.

780.116 Inapplicability of act.

Sec. 6. This act does not apply to any person in this state confined as insane or mentally ill or as a defective delinquent.

History: 1967, Act 161, Imd. Eff. June 30, 1967.

780.117 Request for witnesses confined in foreign state; certificate; contents; foreign court having jurisdiction over prisoner, presentment of certificate.

Sec. 7. If a person confined in a penal institution in any other state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this state, a judge of the court may certify (1) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (2) that a person who is confined in a penal institution in the other state may be a material witness in the proceeding, investigation or action, and (3) that his presence will be required during a specified time. The certificate shall be presented to a judge of a court of record in the other state having jurisdiction over the prisoner confined, and a notice shall be given to the attorney general of the state in which the prisoner is confined.

History: 1967, Act 161, Imd. Eff. June 30, 1967.

780.118 Order of compliance with terms and conditions of foreign judge.

Sec. 8. The judge of the court in this state may enter an order directing compliance with the terms and conditions prescribed by the judge of the state in which the witness is confined.

History: 1967, Act 161, Imd. Eff. June 30, 1967.

780.119 Immunity of witness; arrest or service of process.

Sec. 9. If a witness from another state comes into or passes through this state under an order directing him to attend and testify in this or another state, he shall not while in this state pursuant to the order be subject to arrest or the service of process, civil or criminal, because of any act committed prior to his arrival in this state under the order.

History: 1967, Act 161, Imd. Eff. June 30, 1967.

780.120 Construction of act.

Sec. 10. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

History: 1967, Act 161, Imd. Eff. June 30, 1967.

DISPOSITION OF UNTRIED CHARGES AGAINST INMATES OF PENAL INSTITUTIONS
Act 177 of 1957

AN ACT to dispose of untried warrants, indictments, informations or complaints against inmates of penal institutions of this state.

History: 1957, Act 177, Eff. Sept. 27, 1957.

The People of the State of Michigan enact:

780.131 Notice of untried warrant, indictment, information, or complaint; notice of place of imprisonment; request for final disposition; statement; delivery by certified mail; applicability of section.

Sec. 1. (1) Whenever the department of corrections receives notice that there is pending in this state any untried warrant, indictment, information, or complaint setting forth against any inmate of a correctional facility of this state a criminal offense for which a prison sentence might be imposed upon conviction, the inmate shall be brought to trial within 180 days after the department of corrections causes to be delivered to the prosecuting attorney of the county in which the warrant, indictment, information, or complaint is pending written notice of the place of imprisonment of the inmate and a request for final disposition of the warrant, indictment, information, or complaint. The request shall be accompanied by a statement setting forth the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time or disciplinary credits earned, the time of parole eligibility of the prisoner, and any decisions of the parole board relating to the prisoner. The written notice and statement shall be delivered by certified mail.

(2) This section does not apply to a warrant, indictment, information, or complaint arising from either of the following:

(a) A criminal offense committed by an inmate of a state correctional facility while incarcerated in the correctional facility.

(b) A criminal offense committed by an inmate of a state correctional facility after the inmate has escaped from the correctional facility and before he or she has been returned to the custody of the department of corrections.

History: 1957, Act 177, Eff. Sept. 27, 1957;—Am. 1988, Act 400, Eff. Mar. 30, 1989.

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.

780.132 Request; notice to prisoners.

Sec. 2. The department of corrections shall notify each prisoner of any request forwarded under the provisions of section 1 of this act.

History: 1957, Act 177, Eff. Sept. 27, 1957.

780.133 Failure to prosecute; dismissal with prejudice.

Sec. 3. In the event that, within the time limitation set forth in section 1 of this act, action is not commenced on the matter for which request for disposition was made, no court of this state shall any longer have jurisdiction thereof, nor shall the untried warrant, indictment, information or complaint be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

History: 1957, Act 177, Eff. Sept. 27, 1957.

REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT
Act 8 of 1952

AN ACT relative to the extradition of persons charged with failure to provide support for dependents and to provide for the enforcement by circuit courts in chancery of this state of the duty of such persons to support their dependents in accordance with the requirements of the laws of other states or any foreign state having reciprocal legislation, and to grant to such courts power to enforce such obligations by procedures including contempt; and to prescribe the procedure to be followed by such courts in case of proceedings to require enforcement of the duty to support residents of this state by those obligated to furnish such support through proceedings in courts of other states or any foreign state having reciprocal legislation; to prescribe certain powers and duties of the friend of the court; to prescribe certain powers and duties of certain state officers, agencies, and departments; and to prescribe rules of evidence in such proceedings.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

The People of the State of Michigan enact:

780.151 Short title.

Sec. 1. This act shall be known and may be cited as the "revised uniform reciprocal enforcement of support act".

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.152 Purposes of act; construction.

Sec. 2. (1) The purposes of this act are to improve, extend, and make uniform by reciprocal legislation the enforcement of duties of support.

(2) This act shall be construed to effectuate its general purpose to make uniform the law of those states which enact comparable legislation.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.153 Meanings of words and phrases.

Sec. 3. For the purposes of this act, unless the context requires otherwise, the words and phrases defined in sections 3a and 3b have the meanings ascribed to them in those sections.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.153a Definitions; C to O.

Sec. 3a. (1) "Court" means the appropriate circuit court of this state and, when the context requires, means the appropriate court of any other state as defined in a substantially similar reciprocal law.

(2) "Duty of support" means any duty of support owed to an obligee whether imposed or imposable by law or by order, decree, or judgment of any court, whether temporary or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid. "Duty of support" also includes the duty to reimburse a state or political subdivision for support furnished to an obligee.

(3) "Foreign support order" means a support order issued by a state other than Michigan.

(4) "Governor" means any person performing the functions of governor or the executive authority of any state covered by this or a substantially reciprocal law.

(5) "Initiating court" means the court in which a proceeding is commenced.

(6) "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(7) "Interstate central registry" means the entity in a state that is established pursuant to federal regulation and that is responsible for receiving, reviewing, forwarding, and responding to inquiries about interstate child support actions.

(8) "Law" means both common and statutory law.

(9) "Obligee" means a person, including a state or political subdivision, to whom a duty of support is owed or a person, including a state or political subdivision, who has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(10) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(11) "Office of the friend of the court" means the agency created in section 3 of Act No. 294 of the Public

Acts of 1982, being section 552.503 of the Michigan Compiled Laws.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

780.153b Definitions; P to S.

Sec. 3b. (1) "Prosecuting attorney" means the public official in the appropriate jurisdiction who has the duty to enforce criminal laws relating to the failure to provide for the support of a person.

(2) "Register" means to file in the registry of foreign support orders.

(3) "Registering court" means a court of this state in which a support order of a rendering state is registered.

(4) "Rendering state" means a state in which a court has issued a support order for which registration is sought or granted in a court of another state.

(5) "Responding court" means the court in which a responsive proceeding is commenced.

(6) "Responding state" means a state in which a responsive proceeding pursuant to the proceeding in the initiating state is commenced.

(7) "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(8) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(9) "Support order" means a judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

780.154 Remedies additional.

Sec. 4. The remedies herein provided are in addition to and not in substitution for any other remedies.

History: 1952, Act 8, Eff. Sept. 18, 1952.

780.155 Duties of support generally.

Sec. 5. Duties of support arising under the law of this state, when applicable under section 8, bind the obligor present in this state regardless of the presence or residence of the obligee.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.156 Powers of governor.

Sec. 6. The governor of this state may:

(a) Demand of the governor of another state the surrender of a person found in that state who is charged in this state with the crime of failing to provide for the support of any person.

(b) Surrender on demand by the governor of another state a person found in this state who is charged in that state with the crime of failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this act apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled from the demanding state. The demand, the oath, and any proceedings for extradition pursuant to this section need not state nor show that the person whose surrender is demanded has fled from justice or, at the time of the commission of the crime, was in the demanding state.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.156a Conditions to making demand upon governor; delaying or declining honoring of demand.

Sec. 6a. (1) Before making the demand upon the governor of another state for the surrender of a person charged criminally in this state with failing to provide for the support of a person, the governor of this state may require any prosecuting attorney of this state to satisfy him or her that at least 60 days prior thereto the obligee initiated proceedings for support under this act or that any proceeding would be of no avail.

(2) If, under a substantially similar act, the governor of another state makes a demand upon the governor of this state for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the governor of this state may require any prosecuting attorney to investigate the demand and to report to him or her whether proceedings for support have been initiated or would be effective. If it appears to the governor that a proceeding would be effective but has not been initiated, he or she may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If proceedings have been initiated and the person demanded has prevailed in those proceedings, the governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the governor may decline to honor the demand if the person demanded is complying with the support order.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.157 Obligor relieved of extradition; requirements.

Sec. 7. Any obligor contemplated by sections 6 and 6a, who submits to the jurisdiction of the court of such other state and complies with the court's order of support, shall be relieved of extradition for desertion or nonsupport entered in the courts of this state during the period of such compliance.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.158 Applicable duties of support; presumption.

Sec. 8. Duties of support applicable under this act are those imposed or imposable under the laws of any state where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1960, Act 55, Eff. Aug. 17, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.159 Reimbursement of state or political subdivision.

Sec. 9. If a state or a political subdivision furnishes support to an individual obligee, it has the same right to initiate a proceeding under this act as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.159a Enforcement of duties of support; defense of immunity not available.

Sec. 9a. All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under this act including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.160 Jurisdiction; venue.

Sec. 10. (1) Jurisdiction of any proceeding in this state under this act is vested in the circuit court.

(2) The proper venue if this state is acting as an initiating state is in the county in which the petitioner resides or in which a valid prior and existing support order has been issued. The proper venue if this state is acting as a responding state and a valid support order has been issued in this state is in the county in which the support order was issued. The proper venue if this state is acting as a responding state and a valid support order has not been issued in this state is in the county in which the obligor resides or is found.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.160a Representation of obligee by prosecuting attorney; agreement to transfer prosecutor's responsibilities; conduct of proceeding on behalf of state.

Sec. 10a. (1) If this state is acting as an initiating state, the prosecuting attorney, upon the request of the state department of human services, shall represent the obligee in any proceeding under this act.

(2) The prosecuting attorney and the department of human services may enter into an agreement to transfer the prosecutor's responsibilities under this act to 1 of the following:

(a) The friend of the court, with the approval of the chief judge of the circuit court.

(b) An attorney employed or contracted by the county under section 1 of 1941 PA 15, MCL 49.71.

(c) An attorney employed by, or under contract with, the department of human services.

(3) A proceeding under this section is conducted on behalf of the state and not as the attorney for any other party.

History: Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 2014, Act 371, Eff. Mar. 17, 2015.

780.161 Petition; verification; contents; filing; accepting or forwarding petition.

Sec. 11. (1) The petition shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought and all other pertinent information. The obligee may include in or attach to the petition any information which may help in locating or identifying the obligor, including a photograph of the obligor, a description of any distinguishing marks on the obligor's person, other names and aliases by which the obligor has been or is known, the name of the

obligor's employer, the obligor's fingerprints, or the obligor's social security number.

(2) The petition may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept the petition, or if necessary, forward the petition pursuant to section 13a, on the ground that it should be filed with some other court of this or any other state because there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties or because another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.161a Petition on behalf of minor obligee; execution and filing.

Sec. 11a. A petition on behalf of a minor obligee may be executed and filed without appointment of the petitioner as guardian ad litem or next friend.

History: Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.162 Certification of petition; sending forms package and copy of act to interstate central registry; certification requirements.

Sec. 12. If the initiating court finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or the obligor's property, the initiating court shall so certify and cause a completed forms package as required by federal regulation and 1 copy of this act, to be sent to the responding state's interstate central registry. Certification shall be in accordance with the requirements of the initiating state.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

780.162a Belief that obligor may flee jurisdiction; procedure.

Sec. 12a. If the court of this state believes that the obligor may flee the jurisdiction, it may:

(a) As an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process.

(b) As a responding court, obtain the body of the obligor by appropriate process. The court may subsequently release the obligor upon the obligor's own recognizance or upon the obligor's giving a bond in an amount set by the court to assure the obligor's appearance at the hearing.

History: Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.162b Duties of office of child support; use of state locator service.

Sec. 12b. (1) The office of child support of the state department of human services is designated as the state information agency and the interstate central registry under this act, and it shall do all of the following:

(a) Distribute copies of any amendments to the act and a statement of their effective date to all other state information agencies.

(b) Maintain a list of each interstate central registry in the United States and its address, and provide the list to every prosecutor's office, every attorney employed or contracted under section 10a(2), and every office of the friend of the court in this state.

(c) Maintain a supply of duplicated copies of this act, as amended, for the use of court officers in preparing cases to be forwarded to responding states.

(d) Act generally as a clearing center for information and maintain general liaison with the council of state governments, law enforcement agencies, the legislature, other governmental or private agencies concerned with this act, and the public.

(e) Forward to the court in this state that has proper venue, as determined under section 10, the petitions, certificates, and copies of the act it receives from courts or information agencies of other states.

(2) If the state information agency does not know the location of the obligor or the obligor's property, the agency shall use its state locator service to obtain this information.

History: Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990;—Am. 2014, Act 371, Eff. Mar. 17, 2015.

780.163 Court acting as responding court; docketing case; notification; jurisdiction by court over obligor or obligor's property; utilization of child support formula.

Sec. 13. (1) When the court of this state, acting as a responding court, receives from the interstate central registry of this state copies of the petition, certificate, and act, the clerk of the court shall docket the case and notify the prosecuting attorney of the county, an attorney employed or contracted under section 10a(2), or the

friend of the court, as applicable, who shall be charged with the duty of carrying on the proceedings.

(2) The prosecuting attorney, an attorney employed or contracted under section 10a(2), or the friend of the court shall take all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or the obligor's property. He or she shall prosecute the case diligently.

(3) A party petitioning for child support under this act shall utilize as a guideline the child support formula developed under section 19 of the friend of the court act, 1982 PA 294, MCL 552.519.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990;—Am. 2014, Act 371, Eff. Mar. 17, 2015.

780.163a Inability to obtain jurisdiction; duties of prosecuting attorney, attorney employed or contracted, or friend of the court; forwarding documents.

Sec. 13a. If, because of inaccuracies in the petition or otherwise, the court cannot obtain jurisdiction, the prosecuting attorney, an attorney employed or contracted under section 10a(2), or the friend of the court shall inform the court of what he or she has done to locate the obligor or the property of the obligor and request the court to continue the case pending receipt of more accurate information or an amended petition from the court of the initiating state. If the prosecuting attorney, an attorney employed or contracted under section 10a(2), or the friend of the court discovers that the proper venue is in another county of this state or that the obligor or the property of the obligor may be found in another state, he or she shall so inform the court. The clerk of the court in the responding state shall forward the documents received from the initiating state to the court of proper venue in this state, or, upon approval of the initiating state, to the interstate central registry of the state in which the obligor or the property of the obligor can be located with a request that the documents be forwarded to the proper court. All powers and duties provided by this act apply to the recipient of the documents forwarded under this section. If the clerk of a court of the responding state forwards documents to another court, he or she shall immediately notify the court of the initiating state. If a prosecuting attorney, an attorney employed or contracted under section 10a(2), or the friend of the court does not have any information as to the location of the obligor or the property of the obligor, he or she shall inform the court of the initiating state of that fact.

History: Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990;—Am. 2014, Act 371, Eff. Mar. 17, 2015.

780.163b Manner of conducting proceedings.

Sec. 13b. The court, except as provided otherwise in this act, shall conduct proceedings under this act in the manner prescribed by law for an action for the enforcement of the type of duty of support claimed.

History: Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.163c Evidence as to duty of support.

Sec. 13c. If the obligee is not present at the hearing and the obligor offers evidence constituting a defense which the court does not consider frivolous, upon the request of either party, the court shall continue the hearing to permit evidence relative to the duty of support. The evidence may be adduced by either party by deposition, interrogatories, or affidavits.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.164 Support order; payments; amount; deviation from formula.

Sec. 14. (1) If the court of this state when acting as a responding court finds a duty of support, the court may order the obligor to furnish support and subject the property of the obligor to the order. The support order shall require that payments be made to the office of the friend of the court or the state disbursement unit, as appropriate.

(2) Except as otherwise provided in this section, the court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau. The court may enter an order that deviates from the formula if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:

(a) The support amount determined by application of the child support formula.

(b) How the support order deviates from the child support formula.

(c) The value of property or other support awarded in lieu of the payment of child support, if applicable.

(d) The reasons why application of the child support formula would be unjust or inappropriate in the case.

(3) Subsection (2) does not prohibit the court from entering a support order that is agreed to by the parties and that deviates from the child support formula, if the requirements of subsection (2) are met.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1989, Act 279, Imd. Eff. Dec. 26, 1989;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

780.164a Repealed. 2014, Act 522, Eff. Mar. 17, 2015.

Compiler's note: The repealed section pertained to transition to centralized receipt and disbursement of support and fees.

780.165 Sending copy of support order to initiating court.

Sec. 15. The court of this state when acting as a responding court shall cause a copy of all support orders to be sent to the initiating court.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.166 Terms and conditions assuring compliance; enforcement of support order.

Sec. 16. (1) In addition to the foregoing powers, the court of this state when acting as a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders.

(2) A support order entered by the court of this state when acting as a responding court shall be enforceable as provided in the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1955, Act 161, Imd. Eff. June 7, 1955;—Am. 1966, Act 232, Eff. Jan. 1, 1967;—Am. 1985, Act 45, Imd. Eff. June 14, 1985;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1996, Act 4, Eff. June 1, 1996.

780.166a Adjudicating issue of paternity.

Sec. 16a. The court of this state when acting as a responding court may adjudicate the issue of paternity if both of the following apply:

(a) Paternity has not been legally acknowledged, previously adjudicated, or established by marriage.

(b) The obligor asserts as a defense that he is not the father of the child for whom support is sought.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.167 Duties of court carried out through office of friend of court.

Sec. 17. The court of this state, when acting as a responding court, has the following duties which may be carried out through the office of the friend of the court:

(a) To transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise.

(b) To furnish to the initiating court upon request a certified statement of all payments made by the obligor.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.168 Receipt and disbursement of payments; valid prior and existing support order; carrying out duties.

Sec. 18. (1) Except as provided in subsection (2), the court of this state, when acting as an initiating court, shall receive and disburse immediately all payments made by the obligor or sent by the responding court.

(2) If a valid prior and existing support order has been issued from a court of this state other than the initiating court, the initiating court shall transfer the order to furnish support to the court that issued the valid prior and existing court order and shall inform the court of the responding state of its action. The court that issued the valid prior and existing court order shall receive and disburse immediately all payments made by the obligor or sent by the responding court.

(3) The duties described in subsections (1) and (2) may be carried out through the office of the friend of the court, the clerk of the court, or the state disbursement unit, as appropriate.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

780.169 Husband and wife; privilege against disclosure inapplicable; competent witnesses; compelling testimony.

Sec. 19. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this act. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.169a Pending or prior action or proceeding; hearing; issuance of support order pendente lite; bond; conforming support order to amount allowed in other action or proceeding; staying enforcement prohibited.

Sec. 19a. A responding court shall not stay the proceeding or refuse a hearing under this act because of any

pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite and it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other pending action or proceeding is concluded before the hearing in the instant proceeding and the judgment in the other action or proceeding provides for the support demanded in the petition being heard, the court must conform its support order to the amount allowed in the other action or proceeding and shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.170 Fees and costs.

Sec. 20. An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee, but it may direct that all fees and costs requested by the initiating court and incurred in this state when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor or by the county. These costs or fees do not have priority over amounts due to the obligee.

History: 1952, Act 8, Eff. Sept. 18, 1952;—Am. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.171 Nullification of support orders; crediting amounts paid.

Sec. 21. A support order made by a court of this state pursuant to this act does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this state.

History: Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1957, Act 147, Eff. Sept. 27, 1957;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.172 Jurisdiction not conferred by participation in proceeding.

Sec. 22. Participation in any proceeding under this act does not confer jurisdiction upon any court over any of the parties to the proceeding in any other proceeding.

History: Add. 1953, Act 202, Eff. Oct. 2, 1953;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.173 Repealed. 2014, Act 522, Eff. Mar. 17, 2015.

Compiler's note: The repealed section pertained to reimbursement of county for cost of enforcing spousal or child support or parenting time order.

780.174 Foreign state as reciprocating state; declaration; revocation.

Sec. 24. Where the director of social services is satisfied that reciprocal provisions will be made by any foreign state for the enforcement in that foreign state of support orders made within this state, the director of social services, with the approval of the attorney general, may declare the foreign state to be a reciprocating state for the purpose of this act. Any such order may be revoked by the director of social services, and the state with respect to which the order was made shall then cease to be a reciprocating state for the purposes of this act.

History: Add. 1959, Act 191, Eff. Mar. 19, 1960;—Am. 1985, Act 172, Eff. Mar. 1, 1986.

780.175 Appeal.

Sec. 25. If the attorney general or the director of social services is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, the attorney general may, or the director of social services may request the attorney general to, do either of the following:

(a) Perfect an appeal to the proper appellate court if the support order was issued by a court of this state.

(b) If the support order was issued in another state, cause the appeal to be taken in the other state.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.176 Additional remedies.

Sec. 26. If the duty of support is based on a foreign support order, the obligee has additional remedies as provided in sections 27 to 31.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.177 Registration of foreign support order.

Sec. 27. The obligee may register the foreign support order in a court of this state in the manner, with the effect, and for the purposes provided in this act.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.178 Registry of foreign support orders.

Sec. 28. The clerk of the court shall maintain a registry of foreign support orders in which he or she shall file foreign support orders.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.179 Registration of valid existing support order or foreign support order by friend of court; confirmation of registered order.

Sec. 29. (1) If this state is acting as a rendering state, the friend of the court upon the request of the court or the state department of social services shall proceed to register a valid existing support order of this state in the state where the obligor or the property of the obligor can be located.

(2) Notwithstanding that this state is not the rendering state, the friend of the court upon the request of a resident obligee of a valid existing foreign support order shall proceed to register the foreign support order in the state where the obligor or the property of the obligor can be located.

(3) If this state is acting as a registering state, the friend of the court upon the request of the court or the state department of social services shall proceed to confirm a registered order.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.180 Registration of foreign support order by obligee; transmittal and filing of documents; filing as registration; docketing case; notification of friend of court; mailing or serving notice of registration; copy of registered support order and post office address of obligee; petition to vacate registration or seek other relief; confirmation of registered support order; sending copy of petition to friend of court; hearing; defenses; staying enforcement of order; proof; security.

Sec. 30. (1) An obligee seeking to register a foreign support order in a court of this state shall transmit to the clerk of the court through the interstate central registry of this state 3 copies of the order, 1 of which shall be certified, with all modifications of the order, 1 copy of the reciprocal enforcement of support act of the state in which the order was made, and a statement verified and signed by the obligee, showing the post-office address of the obligee, the last known place of residence and post-office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under this act.

(2) Promptly upon registration of the foreign support order, the clerk of the court shall docket the case and shall notify the friend of the court of the registration of the foreign support order. The friend of the court shall mail by certified or registered mail, return receipt requested, to the obligor at the address given, or serve upon the obligor under the Michigan court rules, a notice of the registration with a copy of the registered support order and the post office address of the obligee.

(3) Within 28 days after service, the obligor may petition the court to vacate the registration or to seek other relief. If the obligor does not petition the court within 28 days after service to vacate the registration or to seek other relief, the registered support order is confirmed. If the obligor does petition the court to vacate the registration or seek other relief, the obligor shall send a copy of the petition to the friend of the court.

(4) If the obligor petitions the court to vacate the registration or for other relief, a hearing shall be scheduled. At the hearing, the obligor may present only matters that would be available to the obligor as defenses in an action to enforce a foreign money judgment. If the obligor shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If the obligor shows to the court any ground upon which enforcement of a support order of this state may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1990, Act 241, Imd. Eff. Oct. 10, 1990.

780.181 Effect and enforcement of confirmed registered foreign support order.

Sec. 31. (1) If a registered foreign support order has been confirmed, it shall be treated in the same manner as a support order issued by a court of this state. A registered foreign support order has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, modifying, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner.

(2) The friend of the court shall enforce a confirmed order.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986.

780.181a Foreign support order; transmittal of support payments to friend of court or state disbursement unit; duties of friend of court or SDU; filing copy of foreign support order.

Sec. 31a. (1) If there is no Michigan support order but there is a foreign support order, upon request of the obligee or the family independence agency if support has been assigned to it, the friend of the court in the county where the obligee resides shall inform the source of support payments to transmit the payments to the friend of the court or the state disbursement unit, as appropriate.

(2) The friend of the court or SDU shall receive, record, disburse, and monitor payments made pursuant to the foreign support order.

(3) A copy of the foreign support order shall be filed with the clerk of the court.

(4) The filing of a support order pursuant to this section is not a registration as described in section 30.

History: Add. 1990, Act 241, Imd. Eff. Oct. 10, 1990;—Am. 1999, Act 155, Imd. Eff. Nov. 3, 1999.

780.182 Adjudicating issue of support only; jurisdiction.

Sec. 32. (1) A proceeding under this act shall adjudicate only the issue of support and shall not adjudicate an issue of custody or parenting time.

(2) Nothing in this act shall prevent a court which has prior continuing jurisdiction over the parties in matters of support, custody, and parenting time from exercising its jurisdiction over those matters.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 1996, Act 4, Eff. June 1, 1996.

780.183 Representation of obligee by attorney general or private legal counsel.

Sec. 33. (1) If this state is the initiating, responding, rendering, or registering state in proceedings under this act, and the prosecuting attorney, an attorney employed or contracted under section 10a(2), or the friend of the court neglects or refuses to represent the obligee, the attorney general may undertake the representation.

(2) The obligee may be represented in any proceedings under this act by private legal counsel at the obligee's own expense.

History: Add. 1985, Act 172, Eff. Mar. 1, 1986;—Am. 2014, Act 371, Eff. Mar. 17, 2015.

APPEAL AFTER DENIAL OF NEW TRIAL; INCORPORATING RECORD OF PROCEEDINGS IN BILL OF EXCEPTIONS
Act 134 of 1893

AN ACT to provide for incorporating the record of proceedings had on motions for new trial in bills of exceptions.

History: 1893, Act 134, Eff. Aug. 28, 1893.

The People of the State of Michigan enact:

780.201 Appeal of case after denial of new trial; bill of exceptions.

Sec. 1. That in all cases hereafter taken to the supreme court on writ of error or appeal, where a motion for a new trial has been previously refused by the trial judge, the party appealing the same may incorporate in the bill of exceptions a record of all proceedings had on said motion for a new trial, including the reasons given by the trial judge in refusing to grant said new trial. Exceptions may be taken and error assigned on the decision of the circuit judge in refusing such motion, and the same shall be reviewed by the supreme court.

History: 1893, Act 134, Eff. Aug. 28, 1893;—CL 1897, 10504;—CL 1929, 17370;—CL 1948, 780.201.

DISPOSITION OF FILES AND PAPERS RELATING TO PROSECUTIONS
Act 66 of 1949

780.221-780.225 Repealed. 2013, Act 199, Imd. Eff. Dec. 18, 2013.

PHOTOGRAPHING GRAND JURY PROCEEDINGS
Act 196 of 1931

AN ACT to prevent the taking of pictures of grand jury proceedings, or of persons present at or connected with the same, and to provide a penalty for the violation thereof.

History: 1931, Act 196, Eff. Sept. 18, 1931.

The People of the State of Michigan enact:

780.301 Grand jury proceeding and persons connected therewith; photographs prohibited.

Sec. 1. It shall be unlawful for any person to take or attempt to take any picture or photographic reproduction of any grand jury proceeding, or of any judge, witness, attorney, juror, officer or other person present at or in any way connected with such proceeding, either within any grand jury room or room, or building adjacent thereto either during such proceeding or during an adjournment or recess thereof.

History: 1931, Act 196, Eff. Sept. 18, 1931;—CL 1948, 780.301.

780.302 Violation of act; misdemeanor, penalty.

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding 100 dollars or by imprisonment in the county jail for a period not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court.

History: 1931, Act 196, Eff. Sept. 18, 1931;—CL 1948, 780.302.

LAW ENFORCEMENT BODY-WORN CAMERA PRIVACY ACT
Act 85 of 2017

AN ACT to exempt from disclosure certain audio and video recordings recorded by law enforcement officers with a body-worn camera in certain private places; to describe certain individuals who may request disclosure of those audio and video recordings; and to prescribe the powers and duties of certain local and state law enforcement agencies.

History: 2017, Act 85, Eff. Jan. 8, 2018.

The People of the State of Michigan enact:

780.311 Short title.

Sec. 1. This act shall be known and may be cited as the "law enforcement body-worn camera privacy act".

History: 2017, Act 85, Eff. Jan. 8, 2018.

780.312 Definitions.

Sec. 2. As used in this act:

(a) "Body-worn camera" means a device that is worn by a law enforcement officer that electronically records audio and video of his or her activities.

(b) "Evidentiary audio and video recording" means an audio and video recording of an incident or encounter recorded by a body-worn camera, including a crime, arrest, citation, search, use of force incident, or confrontational encounter with a citizen, that may be materially useful for investigative or prosecutorial purposes, including for a criminal and internal investigation.

(c) "Private place" means a place where an individual may reasonably expect to be safe from casual or hostile intrusion or surveillance but does not include a place to which the public or a substantial group of the public has access.

History: 2017, Act 85, Eff. Jan. 8, 2018.

780.313 Audio or video recording recorded by body-worn camera; disclosure; protections; exemption from freedom of information act.

Sec. 3. (1) The disclosure of any audio or video recording recorded by a body-worn camera is subject to the protections provided for crime victims in sections 8, 19, 19a, 21, 34, 38, 48, 62, 68, and 80 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.758, 780.769, 780.769a, 780.771, 780.784, 780.788, 780.798, 780.812, 780.818, and 780.830.

(2) Except as otherwise provided in section 4 and subject to section 5, a recording recorded by a law enforcement officer with a body-worn camera that is recorded in a private place is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2017, Act 85, Eff. Jan. 8, 2018.

780.314 Audio and video recording recorded by law enforcement officer with body-worn camera; individuals requesting copy.

Sec. 4. Except for an audio and video recording exempted from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243, and section 3(1) or 5, any of the following individuals may request a copy of an audio and video recording recorded by a law enforcement officer with a body-worn camera in a private place:

(a) An individual who is the subject of the audio and video recording.

(b) An individual whose property has been seized or damaged in relation to a crime to which the audio and video recording is related.

(c) A parent of an individual who is less than 18 years of age described in subdivision (a) or (b).

(d) A legal guardian of an individual described in subdivision (a) or (b).

(e) An attorney who represents an individual described in subdivision (a) or (b).

History: 2017, Act 85, Eff. Jan. 8, 2018.

780.315 Audio or video recording from body-worn camera; retention by law enforcement agency; disclosure as public record; limitation.

Sec. 5. (1) An audio or video recording from a body-worn camera that is retained by a law enforcement agency in connection with an ongoing criminal investigation or an ongoing internal investigation is not a public record and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231

to 15.246, but only to the extent that disclosure as a public record would do any of the following:

(a) Interfere with law enforcement proceedings.

(b) Deprive a person of the right to a fair trial or impartial adjudication.

(c) Constitute an unwarranted invasion of personal privacy.

(d) Disclose the identity of a confidential source or, if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(e) Disclose law enforcement investigative techniques or procedures.

(f) Endanger the life or physical safety of law enforcement personnel.

(g) Disclose information regarding a crime victim in violation of sections 8, 19, 19a, 21, 34, 38, 48, 62, 68, and 80 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.758, 780.769, 780.769a, 780.771, 780.784, 780.788, 780.798, 780.812, 780.818, and 780.830.

(2) An audio or video recording from a body-worn camera that is retained by a law enforcement agency relating to a civil action in which the requesting party and the public body are parties is not a public record and is exempt from disclosure under section 13(1)(v) of the freedom of information act, 1976 PA 442, MCL 15.243.

History: 2017, Act 85, Eff. Jan. 8, 2018.

780.316 Audio and video recording recorded by body-worn camera; retention by law enforcement agency; duration; presumption.

Sec. 6. (1) Except as provided in subsections (2) and (3), a law enforcement agency shall retain an evidentiary audio and video recording recorded by a body-worn camera for not less than 30 days from the date the recording is made.

(2) A law enforcement agency shall retain audio and video recordings that are the subject of an ongoing criminal or internal investigation, or an ongoing criminal prosecution or civil action, until the completion of the ongoing investigation or legal proceeding.

(3) A law enforcement agency shall retain audio and video recorded by a body-worn camera for not less than 3 years after the date the recording is made if the recording is relevant to a formal complaint against a law enforcement officer or agency.

(4) If a complaint against a law enforcement officer or law enforcement agency is made after the expiration of the retention period described in subsection (1), (2), or (3) or a law enforcement agency is unable to produce an audio and video recording related to the complaint in any criminal prosecution or civil action as a result of a technical failure or human error, this act does not create a presumption that the audio and video recording would corroborate either the prosecution's or the defendant's version of events in a criminal prosecution or the plaintiff's or the defendant's version in a civil action.

History: 2017, Act 85, Eff. Jan. 8, 2018.

780.317 Fee.

Sec. 7. A law enforcement agency may charge a fee for a copy of an audio and video recording recorded by a law enforcement officer with a body-worn camera. A fee charged under this section shall be calculated under and in compliance with section 4 of the freedom of information act, 1976 PA 442, MCL 15.234.

History: 2017, Act 85, Eff. Jan. 8, 2018.

780.318 Use, maintenance, and disclosure of audio and video recordings recorded by body-worn cameras; written policy.

Sec. 8. A law enforcement agency that utilizes body-worn cameras shall develop a written policy regarding the use of the body-worn cameras by its law enforcement officers and the maintenance and disclosure of audio and video recordings recorded by body-worn cameras that complies with the requirements of this act.

History: 2017, Act 85, Eff. Jan. 8, 2018.

COERCION OF MARRIED WOMAN BY HUSBAND
Act 85 of 1935

AN ACT to abrogate the common law rule raising a presumption that a married woman committing an offense does so under coercion because she commits it in the presence of her husband.

History: 1935, Act 85, Eff. Sept. 21, 1935.

The People of the State of Michigan enact:

780.401 Presumption of coercion by husband prohibited.

Sec. 1. In the prosecution of any complaint or indictment charging a criminal offense, no presumption shall be indulged that a married woman committing an offense does so under coercion because she commits it in the presence of her husband.

History: 1935, Act 85, Eff. Sept. 21, 1935;—CL 1948, 780.401;—Am. 1990, Act 220, Imd. Eff. Oct. 8, 1990.

CRIMINAL SEXUAL PSYCHOPATHIC PERSONS
Act 165 of 1939

780.501-780.509 Repealed. 1966, Act 267, Eff. Mar. 10, 1967;—1968, Act 143, Eff. Aug. 1, 1968.

RETURN OF PAROLE VIOLATORS
Act 177 of 1956

780.551-780.553 Repealed. 1957, Act 276, Eff. Sept. 27, 1957.

RETURN OF PAROLE VIOLATORS
Act 276 of 1957

AN ACT relative to the return to Michigan of persons violating the terms and conditions of parole; and to repeal certain acts and parts of acts.

History: 1957, Act 276, Eff. Sept. 27, 1957.

The People of the State of Michigan enact:

780.561 Return of parole violators; deputization of employees of other state.

Sec. 1. The attorney general may deputize any person regularly employed by another state for such purposes to act as an officer and agent of this state in effecting the return of any person who has violated the terms and conditions of parole as imposed by this state. In any matter relating to the return of such a person, any agent so deputized shall have all the powers of a police officer of this state for the purpose of effecting the transfer and limited to the time required to effect it.

History: 1957, Act 276, Eff. Sept. 27, 1957.

780.562 Parole violators; evidence of deputization.

Sec. 2. Any deputization pursuant to this statute shall be in writing, duly authenticated by the secretary of state, and any person authorized to act as an agent of this state pursuant hereto shall carry formal evidence of his deputization and shall produce the same upon demand.

History: 1957, Act 276, Eff. Sept. 27, 1957.

780.563 Parole violators; contracts for expenses, terms.

Sec. 3. The attorney general is hereby authorized, subject to the approval of the controller of the department of administration, to enter into contracts with similar officials of any other state or states for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole as imposed by this state. The contract shall covenant and agree as follows:

"1. The party states hereby agree that any two or more of them may, in the discretion of their appropriate officials, cooperate in effecting the return of any parole violator.

"2. In any instance where any officer or officers of one or more of the parties hereto shall effect the return of a parole violator from any jurisdiction to the custody of the state directing his return, the state on whose behalf the return is made shall bear the financial burden of such return and the extent of the financial liability of the cooperating states shall be determined as provided in paragraphs 3, 4 and 5 of this contract.

"3. In every instance where a cooperative return of one or more parole violators is undertaken, the round trip distance which would have been traveled by the officers of each cooperating state in effecting the return of its own violators shall be computed and the sum of all such round trip distances shall also be computed. The share of the expense of a trip chargeable to any cooperating state shall be determined by ascertaining the proportion which its own round trip would have borne to the sum of all round trips which would have been necessary if all states had effected the return of their own violators by employing their own regular officers. Whenever the violator or violators of any cooperating state are not returned to the ultimate destination entirely by the regular officer or officers of another cooperating state or states, the state to which such violator or violators are to be returned shall be entitled to deduct the round trip distance between said ultimate destination and the point where it receives custody of its violator or violators from the round trip distance which its officer or officers would have traveled if such state had effected the entire return of such violator or violators. Standard highway or railway mileage shall be used in calculating distances pursuant to this paragraph.

"4. The entire cost of a cooperative trip, but not including any charge on account of the salary or wages of any officer employed on said trip, shall form the base for determining the share of the expense to be borne by each cooperating state. The cost of any mileage shall be at the official rate for vehicles prevailing in the state by which such vehicles are owned or leased.

"5.(a) Except where any injury or damage referred to herein results solely from the violent act or acts of its own violator or violators, no cooperating state shall be chargeable with any cost nor shall such state incur any liability by reason of injury to any officer regularly employed by another cooperating state nor shall any cooperating state be chargeable with or incur any liability by reason of damage to any vehicle or other equipment owned or leased by another cooperating state.

(b) Workmen's compensation benefits and payments shall be determined and made in accordance with the laws of the state regularly employing the officer.

"6. All payments due under this contract shall be made within thirty days of the conclusion of the

cooperative trip by reason of which they have accrued unless the parties hereto shall by mutual agreement determine otherwise."

History: 1957, Act 276, Eff. Sept. 27, 1957.

780.564 Binding effect of act.

Sec. 4. This act shall not be binding upon this state by any other state not having adopted such legislation.

History: 1957, Act 276, Eff. Sept. 27, 1957.

780.565 Repeal.

Sec. 5. Act No. 177 of the Public Acts of 1956, being sections 780.551 to 780.553 of the Compiled Laws of 1948, is hereby repealed.

History: 1957, Act 276, Eff. Sept. 27, 1957.

RELEASE OF MISDEMEANOR PRISONERS
Act 44 of 1961

AN ACT to provide for the release of misdemeanor prisoners by giving bond to the arresting officer in certain circumstances not inconsistent with public safety; and to repeal certain acts and parts of acts.

History: 1961, Act 44, Imd. Eff. May 20, 1961.

The People of the State of Michigan enact:

780.581 Taking person arrested without warrant for misdemeanor or violation of ordinance before magistrate; bond; receipt; holding certain arrested persons in holding cell, holding center, lockup, or county jail; "political subdivision" defined.

Sec. 1. (1) If a person is arrested without a warrant for a misdemeanor or a violation of a city, village, or township ordinance, and the misdemeanor or violation is punishable by imprisonment for not more than 1 year, or by a fine, or both, the officer making the arrest shall take, without unnecessary delay, the person arrested before the most convenient magistrate of the county in which the offense was committed to answer to the complaint.

(2) Except as otherwise provided in section 2a, if a magistrate is not available or immediate trial cannot be had, the person arrested may deposit with the arresting officer or the direct supervisor of the arresting officer or department, or with the sheriff or a deputy in charge of the county jail if the person arrested is lodged in the county jail, an interim bond to guarantee his or her appearance. The bond shall be a sum of money, as determined by the officer who accepts the bond, not to exceed the amount of the maximum possible fine but not less than 20% of the amount of the minimum possible fine that may be imposed for the offense for which the person was arrested. The person shall be given a receipt as provided in section 3.

(3) If, in the opinion of the arresting officer or department, the arrested person is under the influence of intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, is wanted by police authorities to answer to another charge, is unable to establish or demonstrate his or her identity, or it is otherwise unsafe to release him or her, the arrested person shall be held at the place specified in subsection (4) until he or she is in a proper condition to be released, or until the next session of court.

(4) For purposes of subsection (3), if the person is arrested in a political subdivision that has a holding cell, holding center, or lockup, the person shall be held in that holding cell, holding center, or lockup. However, if that holding facility is at capacity then the person may be held in a holding cell, holding center, or lockup willing to accept the prisoner. If the person is arrested in a political subdivision that does not have a holding cell, holding center, or lockup, the person shall be held in a holding cell, holding center, or lockup willing to accept the prisoner or in the county jail. As used in this subsection, "political subdivision" means a city, village, or township.

History: 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971;—Am. 1983, Act 61, Eff. Mar. 29, 1984;—Am. 1985, Act 149, Imd. Eff. Nov. 12, 1985;—Am. 1990, Act 308, Eff. Mar. 28, 1991.

780.582 Arrest with warrant for misdemeanor or violation of ordinance; penalty; interim bond.

Sec. 2. Except as otherwise provided in section 2a, if a person is arrested with a warrant for a misdemeanor or a violation of a city, village, or township ordinance, and the misdemeanor or violation is punishable by imprisonment for not more than 1 year or by a fine, or both, the provisions of section 1 shall apply, except that the interim bond shall be directed to the magistrate who has signed the warrant, or to any judge authorized to act in his or her stead.

History: 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971;—Am. 1990, Act 308, Eff. Mar. 28, 1991.

780.582a Holding period; protective or release conditions.

Sec. 2a. (1) A person shall not be released on an interim bond as provided in section 1 or on his or her own recognizance as provided in section 3a, but shall be held until he or she can be arraigned or have interim bond set by a judge or district court magistrate if either of the following applies:

(a) The person is arrested without a warrant under section 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15a, or a local ordinance substantially corresponding to that section.

(b) The person is arrested with a warrant for a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a local ordinance substantially corresponding to section 81 of that act and the person is a spouse or former spouse of the victim of the violation, has or has had a dating

relationship with the victim of the violation, has had a child in common with the victim of the violation, or is a person who resides or has resided in the same household as the victim of the violation. As used in this subdivision, "dating relationship" means that term as defined in section 2950 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(2) If a judge or district court magistrate sets interim bond under this section, the judge or magistrate shall consider and may impose the condition that the person released shall not have or attempt to have contact of any kind with the victim.

(3) If a judge or district court magistrate releases under this section a person subject to protective conditions, the judge or district court magistrate shall inform the person on the record, either orally or by a writing that is personally delivered to the person, of the specific conditions imposed and that if the person violates a condition of release, he or she will be subject to arrest without a warrant and may have his or her bond forfeited or revoked and new conditions of release imposed, in addition to any other penalties that may be imposed if he or she is found in contempt of court.

(4) An order or amended order issued under subsection (3) shall contain all of the following:

(a) A statement of the person's full name.

(b) A statement of the person's height, weight, race, sex, date of birth, hair color, eye color, and any other identifying information the judge or district court magistrate considers appropriate.

(c) A statement of the date the conditions become effective.

(d) A statement of the date on which the order will expire.

(e) A statement of the conditions imposed, including, but not limited to, the condition prescribed in subsection (3).

(5) The judge or district court magistrate shall immediately direct a law enforcement agency within the jurisdiction of the court, in writing, to enter an order or amended order issued under subsection (3) into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216. If the order or amended order is rescinded, the judge or district court magistrate shall immediately order the law enforcement agency to remove the order or amended order from the law enforcement information network.

(6) A law enforcement agency within the jurisdiction of the court shall immediately enter an order or amended order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216, or shall remove the order or amended order from the law enforcement information network upon expiration of the order or as directed by the court under subsection (5).

(7) This section does not limit the authority of judges or district court magistrates to impose protective or other release conditions under other applicable statutes or court rules.

History: Add. 1990, Act 308, Eff. Mar. 28, 1991;—Am. 2001, Act 198, Eff. Apr. 1, 2002.

780.583 Deposit of interim bond; form of receipt; forfeiture; waiver; order; warrant.

Sec. 3. (1) If an arrested person deposits an interim bond pursuant to section 1, the officer accepting the bond shall give a receipt to the person for the money deposited with him or her on a form as follows:

Date

Received from

the sum of

Dollars as cash bail to assure the appearance of

before

District Court Judge (or Municipal

Judge) for

, at

on the day of , 19 ,

to answer to a charge of .

If the accused fails to appear at the time and place specified above and to submit to the jurisdiction of the court and stand to and abide by any order of the court, the sum specified above shall be forfeited to the state or the arresting political subdivision.

By depositing this money and accepting this receipt the accused waives any claim to the money following forfeiture.

Officer Dept.

(2) If the accused fails to appear as required in the interim bond receipt, the court shall order the bond forfeited as in cases of default in bail. In addition, the court may issue a warrant upon a signed complaint for the arrest of the accused or a bench warrant for the further appearance of the accused.

History: 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971;—Am. 1990, Act 308, Eff. Mar. 28, 1991.

780.583a Release on own recognizance; interim bond receipt.

Sec. 3a. Except as otherwise provided in section 2a, if an arrest is made on a misdemeanor warrant from another county, the arresting officer may release the arrested person on his or her own recognizance. An interim bond receipt as provided in section 3 shall be executed. On the face of the receipt shall be written "released on own recognizance".

History: Add. 1970, Act 157, Eff. Apr. 1, 1971;—Am. 1990, Act 308, Eff. Mar. 28, 1991.

780.584 Officer taking deposit; report; embezzlement.

Sec. 4. Every officer taking a deposit under this act within 48 hours thereafter or at the next session of court shall deposit the same with the magistrate named in the receipt form, together with the facts relating to such arrest, and failure to make such report and deposit such money shall be deemed embezzlement of public money.

History: 1961, Act 44, Imd. Eff. May 20, 1961.

780.585 Magistrate; change of bond amounts.

Sec. 5. In cases arising under section 2 of this act, the magistrate issuing the warrant may endorse on the back thereof a greater or a lesser amount for an interim bond.

History: 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971.

780.586 Interim bond; purpose; change of amount on arraignment.

Sec. 6. Cash bonds accepted under this act shall be known as interim bonds, and shall be for the purpose of securing the defendant's arraignment in court, at which time said court may continue said bond for further proceedings, or may require a property bond or a cash bond in a greater or lesser amount.

History: 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971.

780.587 Traffic offenses not affected.

Sec. 7. The provisions of this act shall not affect section 728 of Act No. 300 of the Public Acts of 1949, as amended, being section 257.728 of the Compiled Laws of 1948.

History: 1961, Act 44, Imd. Eff. May 20, 1961;—Am. 1970, Act 157, Eff. Apr. 1, 1971.

780.588 Repeal.

Sec. 8. Section 13 of chapter 4 of Act No. 175 of the Public Acts of 1927, as amended, being section 764.13 of the Compiled Laws of 1948, is hereby repealed.

History: 1961, Act 44, Imd. Eff. May 20, 1961.

INTERSTATE AGREEMENT ON DETAINERS
Act 141 of 1961

AN ACT to ratify and enact the agreement on detainers into the laws of the state; to provide for the administration and enforcement of the agreement; and to provide penalties for violation of this act.

History: 1961, Act 141, Eff. Sept. 8, 1961.

The People of the State of Michigan enact:

780.601 Interstate agreement on detainers.

Sec. 1. The agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

THE AGREEMENT ON DETAINERS

The contracting states solemnly agree that:

ARTICLE I

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of co-operative procedures. It is the further purpose of this agreement to provide such co-operative procedures.

ARTICLE II

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

ARTICLE III

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officers' jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint: Provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having

custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

ARTICLE IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: Provided, That the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request: And provided further, That there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V (e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

ARTICLE V

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the

following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

ARTICLE VI

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

ARTICLE VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

ARTICLE VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

ARTICLE IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable, and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby.

If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

History: 1961, Act 141, Eff. Sept. 8, 1961.

780.602 Appropriate court; definition.

Sec. 2. The phrase "appropriate court" as used in the agreement on detainers, with reference to the courts of this state, means all courts of record.

History: 1961, Act 141, Eff. Sept. 8, 1961.

780.603 Agreement on detainers; cooperation to enforce.

Sec. 3. All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

History: 1961, Act 141, Eff. Sept. 8, 1961.

780.604 Agreement on detainers; nonapplicability of habitual criminal act.

Sec. 4. Nothing in this act or in the agreement on detainers shall be construed to require the application of sections 10, 11 and 12 of chapter 9 of Act No. 175 of the Public Acts of 1927, as amended, being sections 769.10, 769.11 and 769.12 of the Compiled Laws of 1948, to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of said agreement.

History: 1961, Act 141, Eff. Sept. 8, 1961.

780.605 Agreement on detainers; escape from custody in another state.

Sec. 5. Escape from custody while in any other state pursuant to the agreement on detainers constitutes an offense against the laws of this state to the same extent and degree as escape from prison in this state and shall be punishable in the same manner as such an escape.

History: 1961, Act 141, Eff. Sept. 8, 1961.

780.606 Agreement on detainers; duty of wardens.

Sec. 6. It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainers.

History: 1961, Act 141, Eff. Sept. 8, 1961.

780.607 Agreement on detainers; director of department of corrections.

Sec. 7. The director of the department of corrections shall serve as the central administrator and chief enforcement officer of this act.

History: 1961, Act 141, Eff. Sept. 8, 1961.

780.608 Agreement on detainers; copies of act, distribution.

Sec. 8. Copies of this act, upon its approval, shall be transmitted to the governor of each state and the attorney general and the secretary of state of the United States and to the council of state governments.

History: 1961, Act 141, Eff. Sept. 8, 1961.

SETTING ASIDE CONVICTIONS
Act 213 of 1965

AN ACT to provide for setting aside the conviction in certain criminal cases; to provide for the effect of such action; to provide for the retention of certain nonpublic records and their use; to prescribe the powers and duties of certain public agencies and officers; and to prescribe penalties.

History: 1965, Act 213, Imd. Eff. July 16, 1965;—Am. 1982, Act 495, Eff. Mar. 30, 1983.

The People of the State of Michigan enact:

780.621 Application for order setting aside conviction; felony or misdemeanor conviction; setting aside of certain convictions prohibited; victim of human trafficking violation; definitions.

Sec. 1. (1) Except as otherwise provided in this act, a person who is convicted of 1 or more criminal offenses may file an application with the convicting court for the entry of an order setting aside 1 or more convictions as follows:

(a) Except as provided in subdivisions (b) and (c), a person convicted of 1 or more criminal offenses, but not more than a total of 3 felony offenses, in this state, may apply to have all of the applicant's convictions from this state set aside.

(b) An applicant may not have more than a total of 2 convictions for an assaultive crime set aside under this act during the applicant's lifetime.

(c) An applicant may not have more than 1 felony conviction for the same offense set aside under this section if the offense is punishable by more than 10 years imprisonment.

(d) A person who is convicted of a violation or an attempted violation of section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e, before January 12, 2015 may petition the convicting court to set aside the conviction if the individual has not been convicted of another offense other than not more than 2 minor offenses. As used in this subdivision, "minor offense" means a misdemeanor or ordinance violation to which all of the following apply:

(*i*) The maximum permissible term of imprisonment does not exceed 90 days.

(*ii*) The maximum permissible fine is not more than $1,000.00.

(*iii*) The person who committed the offense is not more than 21 years old.

(2) A conviction that was deferred and dismissed under any of the following, whether a misdemeanor or a felony, is considered a misdemeanor conviction under subsection (1) for purposes of determining whether a person is eligible to have any conviction set aside under this act:

(a) Section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(b) Section 1070(1)(b)(*i*) or 1209 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1070 and 600.1209.

(c) Section 13 of chapter II or section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 762.13 and 769.4a.

(d) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(e) Section 350a or 430 of the Michigan penal code, 1931 PA 328, MCL 750.350a and 750.430.

(f) Any other law or laws of this state or of a political subdivision of this state similar in nature and applicability to those listed in this subsection that provide for the deferral and dismissal of a felony or misdemeanor charge.

(3) A person who is convicted of a violation of section 448, 449, or 450 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and 750.450, or a local ordinance substantially corresponding to section 448, 449, or 450 of the Michigan penal code, 1931 PA 328, MCL 750.448, 750.449, and 750.450, may apply to have that conviction set aside if the person committed the offense as a direct result of the person being a victim of a human trafficking violation.

(4) As used in this act:

(a) "Assaultive crime" includes any of the following:

(*i*) A violation described in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(*ii*) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, not otherwise included in subparagraph (*i*).

(*iii*) A violation of section 110a, 136b, 234a, 234b, 234c, 349b, or 411h(2)(a) of the Michigan penal code, 1931 PA 328, MCL 750.110a, 750.136b, 750.234a, 750.234b, 750.234c, 750.349b, or 750.411h, or any other

violent felony.

(*iv*) A violation of a law of another state or of a political subdivision of this state or of another state that substantially corresponds to a violation described in subparagraph (*i*), (*ii*), or (*iii*).

(b) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(c) "Felony" means either of the following, as applicable:

(*i*) For purposes of the offense to be set aside, felony means a violation of a penal law of this state that is punishable by imprisonment for more than 1 year or that is designated by law to be a felony.

(*ii*) For purposes of identifying a prior offense, felony means a violation of a penal law of this state, of another state, or of the United States that is punishable by imprisonment for more than 1 year or is designated by law to be a felony.

(d) "First violation operating while intoxicated offense" means a violation of any of the following committed by an individual who at the time of the violation has no prior convictions for violating section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625:

(*i*) Section 625(1), (2), (3), (6), or (8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(*ii*) A local ordinance substantially corresponding to a violation listed in subparagraph (*i*).

(*iii*) A law of an Indian tribe substantially corresponding to a violation listed in subparagraph (*i*).

(*iv*) A law of another state substantially corresponding to a violation listed in subparagraph (*i*).

(*v*) A law of the United States substantially corresponding to a violation listed in subparagraph (*i*).

(e) "Human trafficking violation" means a violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h, or of former section 462i or 462j of that act.

(f) "Indian tribe" means an Indian tribe, Indian band, or Alaskan native village that is recognized by federal law or formally acknowledged by a state.

(g) "Misdemeanor" means a violation of any of the following:

(*i*) A penal law of this state, another state, an Indian tribe, or the United States that is not a felony.

(*ii*) An order, rule, or regulation of a state agency that is punishable by imprisonment for not more than 1 year or a fine that is not a civil fine, or both.

(*iii*) A local ordinance of a political subdivision of this state substantially corresponding to a crime listed in subparagraph (*i*) or (*ii*) that is not a felony.

(*iv*) A violation of the law of another state or political subdivision of another state substantially corresponding to a crime listed under subparagraph (*i*) or (*ii*) that is not a felony.

(*v*) A violation of the law of the United States substantially corresponding to a crime listed under subparagraph (*i*) or (*ii*) that is not a felony.

(h) "Operating while intoxicated" means a violation of any of the following that is not a first violation operating while intoxicated offense:

(*i*) Section 625 or 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.

(*ii*) A local ordinance substantially corresponding to a violation listed in subparagraph (*i*).

(*iii*) A law of an Indian tribe substantially corresponding to a violation listed in subparagraph (*i*).

(*iv*) A law of another state substantially corresponding to a violation listed in subparagraph (*i*).

(*v*) A law of the United States substantially corresponding to a violation listed in subparagraph (*i*).

(i) "Serious misdemeanor" means that term as defined in section 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.811.

(j) "Victim" means that term as defined in sections 2, 31, and 61 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.752, 780.781, and 780.811.

(k) "Violent felony" means that term as defined in section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

History: 1965, Act 213, Imd. Eff. July 16, 1965;—Am. 1982, Act 495, Eff. Mar. 30, 1983;—Am. 1993, Act 342, Eff. May 1, 1994;—Am. 1996, Act 573, Eff. Apr. 1, 1997;—Am. 2002, Act 472, Eff. Oct. 1, 2002;—Am. 2011, Act 64, Imd. Eff. June 23, 2011;—Am. 2014, Act 335, Eff. Jan. 14, 2015;—Am. 2014, Act 463, Imd. Eff. Jan. 12, 2015;—Am. 2016, Act 336, Eff. Mar. 14, 2017;—Am. 2020, Act 191, Eff. Apr. 11, 2021;—Am. 2021, Act 78, Eff. Feb. 19, 2022;—Am. 2023, Act 205, Eff. Feb. 13, 2024.

780.621a Definitions.

Sec. 1a. As used in this act:

(a) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere, or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

(b) "Traffic offense" means a violation of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, or a local ordinance substantially corresponding to that act, which violation involves the operation of a vehicle and at the time of the violation is a felony or misdemeanor.

History: Add. 1982, Act 495, Eff. Mar. 30, 1983.

780.621b Setting aside multiple criminal offenses arising out of same transaction; exceptions.

Sec. 1b. (1) For purposes of a petition to set aside a conviction under section 1 or 1e, more than 1 felony offense or more than 1 misdemeanor offense must be treated as a single felony or misdemeanor conviction if the felony or misdemeanor convictions were contemporaneous such that all of the felony or misdemeanor offenses occurred within 24 hours and arose from the same transaction, provided that none of those felony or misdemeanor offenses constitute any of the following:

(a) An assaultive crime.

(b) A crime involving the use or possession of a dangerous weapon.

(c) A crime with a maximum penalty of 10 or more years' imprisonment.

(d) A conviction for a crime that if it had been obtained in this state would be for an assaultive crime.

(2) As used in this section, "dangerous weapon" means that term as defined in section 110a of the Michigan penal code, 1931 PA 328, MCL 750.110a.

History: Add. 2020, Act 188, Eff. Apr. 11, 2021.

780.621c Prohibition on setting aside convictions for certain criminal cases; applicability to MCL 780.621g; inapplicable to secretary of state driving record.

Sec. 1c. (1) A person shall not apply to have set aside, and a judge shall not set aside, a conviction for any of the following:

(a) A felony for which the maximum punishment is life imprisonment or an attempt to commit a felony for which the maximum punishment is life imprisonment.

(b) A violation or attempted violation of section 136b(3), 136d(1)(b) or (c), 145c, 145d, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.136d, 750.145c, 750.145d, 750.520c, 750.520d, and 750.520g.

(c) A violation or attempted violation of section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e, if the conviction occurred on or after January 12, 2015.

(d) The following traffic offenses:

(*i*) Subject to subsections (3) and (4), a conviction for operating while intoxicated committed by any person.

(*ii*) Any traffic offense committed by an individual with an indorsement on his or her operator's or chauffeur's license to operate a commercial motor vehicle that was committed while the individual was operating the commercial motor vehicle or was in another manner a commercial motor vehicle violation.

(*iii*) Any traffic offense that causes injury or death.

(e) A felony conviction for domestic violence, if the person has a previous misdemeanor conviction for domestic violence.

(f) A violation of former section 462i or 462j or chapter LXVIIA or chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h and 750.543a to 750.543z.

(2) The prohibition on the setting aside of the convictions under subsection (1) upon application also applies to the setting aside of convictions without application under section 1g.

(3) The prohibition on setting aside a conviction for operating while intoxicated under subsection (1)(d)(*i*) does not apply to a conviction for a first violation operating while intoxicated offense if the person applying to have the first violation operating while intoxicated offense conviction set aside has not previously applied to have and had a first violation operating while intoxicated offense conviction set aside under this act. However, a conviction for a first violation operating while intoxicated offense that may be set aside upon application is not eligible for and shall not be set aside without application under section 1g.

(4) In making a determination whether to grant the petition to set aside a first violation operating while intoxicated offense conviction the reviewing court may consider whether or not the petitioner has benefited from rehabilitative or educational programs, if any were ordered by the sentencing court, or whether such steps were taken by the petitioner before sentencing for the first violation operating while intoxicated offense conviction he or she is seeking to set aside. The reviewing court is not constrained by the record made at sentencing. The reviewing court may deny the petition if it is not convinced that the petitioner has either availed himself or herself of rehabilitative or educational programming or benefited from rehabilitative or educational programming he or she has completed.

(5) An order setting aside a conviction for a traffic offense under this act must not require that the conviction be removed or expunged from the applicant's driving record maintained by the secretary of state as required under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

History: Add. 2020, Act 187, Eff. Apr. 11, 2021;—Am. 2021, Act 79, Eff. Feb. 19, 2022.

780.621d Application and procedures for setting aside felonies and serious misdemeanor convictions.

Sec. 1d. (1) An application under section 1 to set aside more than 1 felony conviction shall only be filed 7 or more years after whichever of the following events occurs last:

(a) Imposition of the sentence for the convictions that the applicant seeks to set aside.

(b) Completion of any term of felony probation imposed for the convictions that the applicant seeks to set aside.

(c) Discharge from parole imposed for the convictions that the applicant seeks to set aside.

(d) Completion of any term of imprisonment imposed for the convictions that the applicant seeks to set aside.

(2) An application under section 1 to set aside 1 or more serious misdemeanor convictions, 1 first violation operating while intoxicated offense, or 1 felony conviction shall only be filed 5 or more years after whichever of the following events occurs last:

(a) Imposition of the sentence for the conviction or convictions that the applicant seeks to set aside.

(b) Completion of probation imposed for the conviction or convictions that the applicant seeks to set aside.

(c) Discharge from parole imposed for the conviction that the applicant seeks to set aside, if applicable.

(d) Completion of any term of imprisonment imposed for the conviction or convictions that the applicant seeks to set aside.

(3) An application under section 1 to set aside 1 or more misdemeanor convictions, other than an application to set aside a serious misdemeanor, a first violation operating while intoxicated offense, or any other misdemeanor conviction for an assaultive crime, shall only be filed 3 or more years after whichever of the following events occurs last:

(a) Imposition of the sentence for the conviction that the applicant seeks to set aside.

(b) Completion of any term of imprisonment imposed for the conviction that the applicant seeks to set aside.

(c) Completion of probation imposed for the conviction or convictions that the applicant seeks to set aside.

(4) For an application under section 1, a court shall not enter an order setting aside a conviction or convictions unless all of the following apply:

(a) The applicable time period required under subsection (1), (2), or (3) has elapsed.

(b) There are no criminal charges pending against the applicant.

(c) The applicant has not been convicted of any criminal offense during the applicable time period required under subsection (1), (2), or (3).

(5) If a petition under this act is denied by the convicting court, a person shall not file another petition concerning the same conviction or convictions with the convicting court until 3 years after the date the convicting court denies the previous petition, unless the court specifies an earlier date for filing another petition in the order denying the petition.

(6) An application under section 1(3) may be filed at any time following the date of the conviction to be set aside. A person may apply to have more than 1 conviction set aside under section 1(3).

(7) An application under section 1 is invalid unless it contains the following information and is signed under oath by the person whose conviction is or convictions are to be set aside:

(a) The full name and current address of the applicant.

(b) A certified record of each conviction that is to be set aside.

(c) For an application under section 1(1), a statement that the applicant has not been convicted of an offense during the applicable time period required under subsection (1), (2), or (3).

(d) A statement listing all actions enumerated in section 1(2) that were initiated against the applicant and have been dismissed.

(e) A statement as to whether the applicant has previously filed an application to set aside this or other conviction and, if so, the disposition of the application.

(f) A statement as to whether the applicant has any other criminal charge pending against him or her in any court in the United States or in any other country.

(g) If the person is seeking to have 1 or more convictions set aside under section 1(3), a statement that he or she meets the criteria set forth in section 1(3), together with a statement of the facts supporting his or her contention that the conviction was a direct result of his or her being a victim of human trafficking.

(h) A consent to the use of the nonpublic record created under section 3 to the extent authorized by section 3.

(8) The applicant shall submit a copy of the application and 1 complete set of fingerprints to the

department of state police. The department of state police shall compare those fingerprints with the records of the department, including the nonpublic record created under section 3, and shall forward an electronic copy of a complete set of fingerprints to the Federal Bureau of Investigation for a comparison with the records available to that agency. The department of state police shall report to the court in which the application is filed the information contained in the department's records with respect to any pending charges against the applicant, any record of conviction of the applicant, and the setting aside of any conviction of the applicant and shall report to the court any similar information obtained from the Federal Bureau of Investigation. The court shall not act upon the application until the department of state police reports the information required by this subsection to the court.

(9) The copy of the application submitted to the department of state police under subsection (8) must be accompanied by a fee of $50.00 payable to the state of Michigan that must be used by the department of state police to defray the expenses incurred in processing the application.

(10) A copy of the application must be served upon the attorney general and upon the office of each prosecuting attorney who prosecuted the crime or crimes the applicant seeks to set aside, and an opportunity must be given to the attorney general and to the prosecuting attorney to contest the application. If a conviction was for an assaultive crime or a serious misdemeanor, the prosecuting attorney shall notify the victim of the assaultive crime or serious misdemeanor of the application under section 22a or 77a of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.772a and 780.827a. The notice must be by first-class mail to the victim's last known address. The victim has the right to appear at any proceeding under this act concerning that conviction and to make a written or oral statement.

(11) For an application under section 1(1), upon the hearing of the application the court may require the filing of affidavits and the taking of proofs as it considers proper.

(12) For an application under section 1(3), if the applicant proves to the court by a preponderance of the evidence that the conviction was a direct result of his or her being a victim of human trafficking, the court may, subject to the requirements of subsection (13), enter an order setting aside the conviction.

(13) If the court determines that the circumstances and behavior of an applicant under section 1(1) or (3), from the date of the applicant's conviction or convictions to the filing of the application warrant setting aside the conviction or convictions, and that setting aside the conviction or convictions is consistent with the public welfare, the court may enter an order setting aside the conviction or convictions.

(14) The setting aside of a conviction or convictions under this act is a privilege and conditional and is not a right.

History: Add. 2020, Act 190, Eff. Apr. 11, 2021;—Am. 2021, Act 82, Eff. Mar. 9, 2022.

780.621e Application to set aside misdemeanor marihuana offenses; requirements; rebuttable presumption; order; "misdemeanor marihuana offense" defined.

Sec. 1e. (1) Beginning on January 1, 2020, a person convicted of 1 or more misdemeanor marihuana offenses may apply to set aside the conviction or convictions under this subsection.

(2) An application under subsection (1) must contain all of the following information:

(a) The full name and current address of the applicant.

(b) A certified record of each conviction that is to be set aside.

(3) A copy of the application under subsection (1) must be served upon the agency that prosecuted the offense or offenses the applicant seeks to set aside.

(4) A rebuttable presumption that a conviction for a misdemeanor marihuana offense sought to be set aside by an applicant was based on activity that would not have been a crime if committed on or after December 6, 2018 arises upon the filing of an application under subsection (1). The presumption described in this subsection may be rebutted by the presentation of evidence by the prosecuting agency that prosecuted the case that demonstrates by a preponderance of the evidence that the conduct on which the applicant's conviction was or convictions were based would constitute a criminal violation of the laws of this state or a political subdivision of this state if it had been committed on or after December 6, 2018. An answer made under this subsection must be filed no later than 60 days from the date of service of the application. If an answer is filed with the convicting court, the answering party must serve the answer upon the other parties to the matter.

(5) Upon the expiration of the 60-day period under subsection (4), if the prosecuting agency has not filed an answer to the application addressing the rebuttable presumption described in subsection (4), the convicting court must within 21 days enter an order setting aside the conviction or convictions and serve a copy of the order upon the applicant, the arresting agency, the prosecuting agency, and the department of the state police.

(6) If the prosecuting agency files an answer addressing the rebuttable presumption in subsection (4), the convicting court must promptly set the matter for a hearing no later than 30 days from its receipt of the answer, and serve a notice of the hearing upon the applicant. At the hearing, the prosecuting agency must

prove by a preponderance of the evidence that a conviction or convictions sought to be set aside by an applicant were based upon conduct that would constitute a criminal violation of the laws of this state or a political subdivision of this state if it had been committed on or after December 6, 2018. An applicant is not required to present evidence that his or her conviction was based upon conduct that would not constitute a criminal violation of the laws of this state or a political subdivision of this state on or after December 6, 2018. The evidentiary burden under this subsection rests solely on the objecting prosecuting agency. After a hearing under this subsection, the court shall enter an order denying or granting the application no later than 14 days after completion of the hearing and serve any written opinions and orders, including an order setting aside the conviction or convictions, upon the parties, including the department of state police. The rules of evidence do not apply to a hearing under this subsection.

(7) As used in this section, "misdemeanor marihuana offense" means a violation of section 7403(2)(d), 7404(2)(d), or a marihuana paraphernalia violation of section 7453 of the public health code, 1978 PA 368, MCL 333.7403, 333.7404, and 333.7453, or a violation of a local ordinance substantially corresponding to section 7403(2)(d), 7404(2)(d), or the prohibition regarding marihuana paraphernalia of section 7453 of the public health code, 1978 PA 368, MCL 333.7403, 333.7404, and 333.7453.

History: Add. 2020, Act 192, Eff. Apr. 11, 2021.

780.621f Procedures for setting aside certain marihuana offenses under MCL 780.621e.

Sec. 1f. (1) If an application to set aside a conviction or convictions under section 1e is granted, the arresting agency and the department of the state police shall maintain the nonpublic record created under section 3 for use as authorized under section 3.

(2) If an application to set aside a conviction or convictions is granted under section 1e, the applicant may not thereafter seek resentencing in another criminal case the applicant was sentenced for during which the conviction or convictions at issue were used in determining an appropriate sentence for the applicant, whether or not the setting aside of the conviction or convictions would have changed the scoring of a prior record variable for purposes of the sentencing guidelines or otherwise.

(3) A party aggrieved by the ruling of the convicting court considering an application under section 1e may seek a rehearing or reconsideration under the applicable rules of the convicting court or may file an appeal with the circuit court or, if applicable, the court of appeals in accordance with the rules of those courts.

(4) The setting aside of a conviction under section 1e does not entitle the applicant to the return of any fines, costs, or fees imposed as part of the applicant's sentence for the conviction or convictions or of any money or property forfeited by the prosecuting agency or any law enforcement agency as a result of the conduct leading to the conviction or as a result of the conviction itself.

History: Add. 2020, Act 189, Eff. Apr. 11, 2021.

780.621g Setting aside certain convictions without application; requirements; exceptions; implementation date; reinstatement; "crime of dishonesty" defined.

Sec. 1g. (1) Beginning 2 years after the effective date of the amendatory act that added this section and subject to any necessary appropriation, a misdemeanor conviction for an offense for which the maximum punishment is imprisonment for not more than 92 days is set aside under this section without the filing of an application under section 1 if 7 years have passed from the imposition of the sentence. Each court shall notify the arresting law enforcement agency of each conviction on or before the tenth day of each month that is set aside under this subsection for the preceding month. Each law enforcement agency need not retain and shall make nonpublic the notification that the conviction has been set aside, and the record of the arrest, fingerprinting, conviction, and sentence of the person in the case to which the notification applies.

(2) Beginning 2 years after the effective date of the amendatory act that added this section and subject to any necessary appropriation and subsections (5), (6), (7), and (10), a felony conviction that is recorded and maintained in the department of state police database is set aside under this section without the filing of an application under section 1 if both of the following apply:

(a) Ten years have passed from whichever of the following events occurs last:

(*i*) Imposition of the sentence for the conviction.

(*ii*) Completion of any term of imprisonment with the department of corrections for the conviction.

(b) The conviction or convictions are otherwise eligible to be set aside under section 1.

(3) Beginning 2 years after the effective date of the amendatory act that added this section and subject to any necessary appropriation and subsection (10), a conviction for a misdemeanor offense for which the maximum punishment is imprisonment for not more than 92 days that is recorded and maintained in the department of state police database is set aside under this section without the filing of an application under section 1 if 7 years have passed from the imposition of the sentence.

(4) Beginning 2 years after the effective date of the amendatory act that added this section and subject to any necessary appropriation and subsections (5), (6), (7), and (10), a conviction for a misdemeanor offense for which the maximum punishment is imprisonment for 93 days or more that is recorded and maintained in the department of state police database is set aside under this section without the filing of an application under section 1 if 7 years have passed from the imposition of the sentence.

(5) Except as otherwise provided in this subsection, not more than 2 felony convictions and 4 misdemeanor convictions total that are recorded and maintained in the department of state police database may be set aside under this section during the lifetime of an individual. The limit on the number of misdemeanor convictions that may be set aside under this subsection does not apply to the setting aside of convictions described under subsection (1) or (3).

(6) A conviction is not set aside under subsection (2) or (4) unless all of the following apply:

(a) The applicable time period required under subsection (2) or (4) has elapsed.

(b) There are no criminal charges pending in the department of state police database against the applicant.

(c) The applicant has not been convicted of any criminal offense that is recorded and maintained in the department of state police database during the applicable time period required under subsection (2) or (4).

(7) Subsections (2) and (4) do not apply to an individual who has more than 1 conviction for an assaultive crime or an attempt to commit an assaultive crime that is recorded and maintained in the department of state police database.

(8) If the governor determines that the process for setting aside a conviction without an application under this section cannot be implemented by the date required under subsections (1), (2), (3), and (4) because of technological limitations, the governor may issue a directive delaying the implementation of this section for not more than 180 days. The attorney general, the state court administrator, or the director of the department of state police may recommend a delay of implementation to the governor under this subsection.

(9) An individual whose conviction is set aside under this section impliedly consents to the creation of the nonpublic record under section 3.

(10) Subsections (2) and (4) do not apply to a conviction recorded and maintained in the department of state police database for the commission of or attempted commission of any of the following:

(a) An assaultive crime.

(b) A serious misdemeanor.

(c) A crime of dishonesty.

(d) Any other offense, not otherwise listed under this subsection, that is punishable by 10 or more years' imprisonment.

(e) A violation of the laws of this state listed under chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.1 to 777.69, the elements of which involve a minor, vulnerable adult, injury or serious impairment, or death.

(f) Any violation related to human trafficking.

(11) The department of technology, management, and budget shall develop and maintain a computer-based program for the setting aside of convictions under this section. In fulfilling its duty under this subsection, the department of technology, management, and budget may contract with a private technical consultant as needed.

(12) The setting aside of a conviction without an application under this section is subject to reinstatement under section 1h.

(13) The department of state police shall create and maintain an electronically accessible record of each conviction recorded and maintained in the department of state police database that was set aside under this section that must be provided to or accessible by each court in this state. An electronic record created as required under this section may only be used as authorized under section 3 and by a court for purposes of updating locally maintained court records.

(14) The implementation of the section is subject to appropriation. The department of state police and the department of technology, management, and budget shall begin work to implement the section immediately upon appropriation.

(15) As used in this section, "crime of dishonesty" includes a felony violation of chapters XXVA and XLI, felony violations of sections 174, 174a, 175, 176, 180, and 181 of the Michigan penal code, 1931 PA 328, MCL 750.159f to 750.159x, 750.248 to 750.265a, 750.174, 750.174a, 750.175, 750.176, 750.180, and 750.181, and a violation of 1979 PA 53, MCL 752.791 to 752.797.

History: Add. 2020, Act 193, Eff. Apr. 11, 2021.

780.621h Reinstatement of conviction set aside without application.

Sec. 1h. (1) Upon the occurrence of 1 of the circumstances under subsection (2) or (3), a conviction that

was set aside by operation of law under section 1g shall be reinstated by the court as provided in this section.

(2) If it is determined that a conviction was improperly or erroneously set aside under section 1g because the conviction was not eligible to be set aside under section 1g or any other provision of this act, the court shall, on its own motion, reinstate the conviction.

(3) Upon a motion by a person owed restitution, or on its own motion, the court shall reinstate a conviction that was set aside under section 1g for which the individual whose conviction was set aside was ordered to pay restitution if the court determines that the individual has not made a good-faith effort to pay the ordered restitution.

History: Add. 2020, Act 193, Eff. Apr. 11, 2021.

780.621i Michigan set aside fund; creation; expenditures.

Sec. 1i. (1) The Michigan set aside fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The state treasurer shall be the administrator of the fund for auditing purposes.

(5) The department of state police, the department of technology, management, and budget, and the state court administrative office shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

(a) Implementation costs associated with changes made to this act by the amendatory act that added this section.

(b) System upgrades necessitated by the changes made to this act by the amendatory act that added this section.

(c) Staffing needs necessitated by the changes made to this act by the amendatory act that added this section.

History: Add. 2020, Act 193, Eff. Apr. 11, 2021.

780.622 Entry of order; effect; use of set aside conviction; "applicant" defined.

Sec. 2. (1) Upon the entry of an order under section 1 or 1e, or upon the automatic setting aside of a conviction under section 1g, the applicant, for purposes of the law, is considered not to have been previously convicted, except as provided in this section and section 3.

(2) The applicant is not entitled to the remission of any fine, costs, or other money paid as a consequence of a conviction that is set aside.

(3) If the conviction set aside under section 1(1), 1e, or 1g is for a listed offense as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the applicant is considered to have been convicted of that offense for purposes of that act.

(4) This act does not affect the right of the applicant to rely upon the conviction to bar subsequent proceedings for the same offense.

(5) This act does not affect the right of a victim of a crime to prosecute or defend a civil action for damages.

(6) This act does not create a right to commence an action for damages for incarceration under the sentence that the applicant served before the conviction is set aside under this act.

(7) This act does not relieve any obligation to pay restitution owed to the victim of a crime nor does it affect the jurisdiction of the convicting court or the authority of any court order with regard to enforcing an order for restitution.

(8) A conviction, including any records relating to the conviction and any records concerning a collateral action, that has been set aside under this act cannot be used as evidence in an action for negligent hiring, admission, or licensure against any person.

(9) A conviction that is set aside under section 1, 1e, or 1g may be considered a prior conviction by court, law enforcement agency, prosecuting attorney, or the attorney general, as applicable, for purposes of charging a crime as a second or subsequent offense or for sentencing under sections 10, 11, and 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(10) As used in this section, "applicant" includes an individual who has applied under this act to have his or her conviction or convictions set aside and an individual whose conviction or convictions have been set aside without an application under section 1g.

History: 1965, Act 213, Imd. Eff. July 16, 1965;—Am. 1982, Act 495, Eff. Mar. 30, 1983;—Am. 1993, Act 342, Eff. May 1, 1994;

—Am. 1994, Act 294, Eff. Oct. 1, 1995;—Am. 2014, Act 335, Eff. Jan. 14, 2015;—Am. 2020, Act 193, Eff. Apr. 11, 2021.

780.623 Sending copy of order to arresting agency and department of state police; retention and availability of nonpublic record of order and other records; providing copy of nonpublic record to person whose conviction set aside; fee; nonpublic record exempt from disclosure; prohibited conduct; misdemeanor; penalty; liability; "victim" defined.

Sec. 3. (1) Upon the entry of an order under section 1 or 1e, the court shall send a copy of the order to the arresting agency and the department of state police.

(2) The department of state police shall retain a nonpublic record of the order setting aside a conviction, or other notification regarding a conviction that was automatically set aside under section 1g, and of the record of the arrest, fingerprints, conviction, and sentence of the person in the case to which the order or other notification applies. Except as provided in subsection (3), this nonpublic record shall be made available only to a court of competent jurisdiction, an agency of the judicial branch of state government, the department of corrections, a law enforcement agency, a prosecuting attorney, the attorney general, or the governor upon request and only for the following purposes:

(a) Consideration in a licensing function conducted by an agency of the judicial branch of state government.

(b) To show that a person who has filed an application to set aside a conviction has previously had a conviction set aside under this act.

(c) The court's consideration in determining the sentence to be imposed upon conviction for a subsequent offense that is punishable as a felony or by imprisonment for more than 1 year.

(d) Consideration by the governor if a person whose conviction has been set aside applies for a pardon for another offense.

(e) Consideration by the department of corrections or a law enforcement agency if a person whose conviction has been set aside applies for employment with the department of corrections or law enforcement agency.

(f) Consideration by a court, law enforcement agency, prosecuting attorney, or the attorney general in determining whether an individual required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, has violated that act, or for use in a prosecution for violating that act.

(g) Consideration by a court, law enforcement agency, prosecuting attorney, or the attorney general for use in making determinations regarding charging, plea offers, and sentencing, as applicable.

(3) A copy of the nonpublic record created under subsection (2) must be provided to the person whose conviction is set aside under this act upon payment of a fee determined and charged by the department of state police in the same manner as the fee prescribed in section 4 of the freedom of information act, 1976 PA 442, MCL 15.234.

(4) The nonpublic record maintained under subsection (2) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) Except as provided in subsection (2), a person, other than the person whose conviction was set aside or a victim, who knows or should have known that a conviction was set aside under this section and who divulges, uses, or publishes information concerning a conviction set aside under this section 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.

(6) An entity is not liable for damages or subject to criminal penalties under this section for reporting a public record of conviction that has been set-aside by court order or operation of law, if that record was available as a public record on the date of the report.

(6) As used in this section, "victim" means any individual who suffers direct or threatened physical, financial, or emotional harm as the result of the offense that was committed by the applicant.

History: Add. 1982, Act 495, Eff. Mar. 30, 1983;—Am. 1988, Act 11, Imd. Eff. Feb. 8, 1988;—Am. 1993, Act 342, Eff. May 1, 1994;—Am. 1994, Act 294, Eff. Oct. 1, 1995;—Am. 2014, Act 463, Imd. Eff. Jan. 12, 2015;—Am. 2020, Act 193, Eff. Apr. 11, 2021.

Compiler's note: Subsection (6) beginning with "As used in this section," evidently should be numbered (7).

780.624 Setting aside of convictions; limitation.

Sec. 4. Except as provided in sections 1, 1e, and 1g, a person may have only 1 conviction set aside under this act.

History: Add. 1982, Act 495, Eff. Mar. 30, 1983;—Am. 2014, Act 335, Eff. Jan. 14, 2015;—Am. 2020, Act 193, Eff. Apr. 11, 2021.

SEARCH WARRANTS
Act 189 of 1966

AN ACT to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts.

History: 1966, Act 189, Eff. Mar. 10, 1967.

The People of the State of Michigan enact:

780.651 Issuance of search warrant; requirements; making affidavit for search warrant or search warrant by electronic or electromagnetic means; signing; proof; oath or affirmation; impression seal; nonpublic information; suppression order.

Sec. 1. (1) When an affidavit is made on oath to a judge or district court magistrate authorized to issue warrants in criminal cases, and the affidavit establishes grounds for issuing a warrant under this act, the judge or district court magistrate, if he or she is satisfied that there is probable cause for the search, shall issue a warrant to search the house, building, or other location or place where the person, property, or thing to be searched for and seized is situated.

(2) An affidavit for a search warrant may be made by any electronic or electromagnetic means of communication, including by facsimile or over a computer network, if both of the following occur:

(a) The judge or district court magistrate orally administers the oath or affirmation to an applicant for a search warrant who submits an affidavit under this subsection.

(b) The affiant signs the affidavit. Proof that the affiant has signed the affidavit may consist of an electronically or electromagnetically transmitted facsimile of the signed affidavit or an electronic signature on an affidavit transmitted over a computer network.

(3) A judge or district court magistrate may issue a written search warrant in person or by any electronic or electromagnetic means of communication, including by facsimile or over a computer network.

(4) A judge or district court magistrate may sign an electronically issued search warrant when he or she is at any location in this state.

(5) The peace officer or department receiving an electronically or electromagnetically issued search warrant shall receive proof that the issuing judge or district court magistrate has signed the warrant before the warrant is executed. Proof that the issuing judge or district court magistrate has signed the warrant may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant or an electronic signature on a warrant transmitted over a computer network.

(6) If an oath or affirmation is orally administered by electronic or electromagnetic means of communication under this section, the oath or affirmation is considered to be administered before the judge or district court magistrate.

(7) If an affidavit for a search warrant is submitted by electronic or electromagnetic means of communication, or a search warrant is issued by electronic or electromagnetic means of communication, the transmitted copies of the affidavit or search warrant are duplicate originals of the affidavit or search warrant and are not required to contain an impression made by an impression seal.

(8) Except as provided in subsection (9), an affidavit for a search warrant contained in any court file or court record retention system is nonpublic information.

(9) On the fifty-sixth day following the issuance of a search warrant, the search warrant affidavit contained in any court file or court record retention system is public information unless, before the fifty-sixth day after the search warrant is issued, a peace officer or prosecuting attorney obtains a suppression order from a judge or district court magistrate upon a showing under oath that suppression of the affidavit is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness. The suppression order may be obtained ex parte in the same manner that the search warrant was issued. An initial suppression order issued under this subsection expires on the fifty-sixth day after the order is issued. A second or subsequent suppression order may be obtained in the same manner as the initial suppression order and shall expire on a date specified in the order. This subsection and subsection (8) do not affect a person's right to obtain a copy of a search warrant affidavit from the prosecuting attorney or law enforcement agency under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 1966, Act 189, Eff. Mar. 10, 1967;—Am. 1990, Act 43, Imd. Eff. Mar. 29, 1990;—Am. 2002, Act 128, Eff. Apr. 22, 2002;—Am. 2002, Act 506, Imd. Eff. July 19, 2002;—Am. 2003, Act 185, Imd. Eff. Oct. 17, 2003;—Am. 2009, Act 11, Imd. Eff. Apr. 9, 2009;—Am. 2014, Act 383, Imd. Eff. Dec. 18, 2014.

Constitutionality: A search warrant based upon an unsigned affidavit is presumed invalid, but the presumption may be rebutted by a showing that the facts in the affidavit supporting issuance of the warrant were made on oath to the magistrate who authorized issuance of

the warrant. People v Mitchell, 428 Mich 364; 408 NW2d 798 (1987).

780.652 Search warrant; grounds for issuance.

Sec. 2. (1) A warrant may be issued to search for and seize any property or other thing that is 1 or more of the following:

(a) Stolen or embezzled in violation of a law of this state.

(b) Designed and intended for use, or that is or has been used, as the means of committing a crime.

(c) Possessed, controlled, or used wholly or partially in violation of a law of this state.

(d) Evidence of crime or criminal conduct.

(e) Contraband.

(f) The body or person of a human being or of an animal that may be the victim of a crime.

(g) The object of a search warrant under another law of this state providing for the search warrant. If there is a conflict between this act and another search warrant law, this act controls.

(2) A warrant may be issued to search for and seize a person who is the subject of either of the following:

(a) An arrest warrant for the apprehension of a person charged with a crime.

(b) A bench warrant issued in a criminal case.

History: 1966, Act 189, Eff. Mar. 10, 1967;—Am. 2009, Act 10, Imd. Eff. Apr. 9, 2009.

780.652a Search warrant; search and seizure of hair, tissue, blood, or other fluids.

Sec. 2a. (1) If the court has probable cause to believe that an individual violated section 520b(1)(b)(*ii*) or (h)(*i*), 520c(1)(b)(*ii*) or (h)(*i*), 520d(1)(d), or 520e(1)(g) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.520b, 750.520c, 750.520d, and 750.520e of the Michigan Compiled Laws, the court shall, upon proper petition for a search warrant, authorize the search and seizure of hair or tissue, or blood or other fluid samples from all of the following:

(a) Any individual whom the court has probable cause to believe committed that violation.

(b) If the court has probable cause to believe that the violation resulted in the birth of a child, that child.

(c) If the court has probable cause to believe that the violation resulted in a pregnancy that was terminated before the birth of a child, the remains of that unborn child.

(2) This section does not prohibit the court from issuing a search warrant for other evidence as considered appropriate by the court.

History: Add. 1996, Act 186, Eff. June 1, 1996.

780.653 Judge or district court magistrate's finding of reasonable or probable cause; basis of finding; basis and contents of affidavit.

Sec. 3. The judge or district court magistrate's finding of reasonable or probable cause shall be based upon all the facts related within the affidavit made before him or her. The affidavit may be based upon information supplied to the complainant by a named or unnamed person if the affidavit contains 1 of the following:

(a) If the person is named, affirmative allegations from which the judge or district court magistrate may conclude that the person spoke with personal knowledge of the information.

(b) If the person is unnamed, affirmative allegations from which the judge or district magistrate may conclude that the person spoke with personal knowledge of the information and either that the unnamed person is credible or that the information is reliable.

History: 1966, Act 189, Eff. Mar. 10, 1967;—Am. 1988, Act 80, Eff. June 1, 1988;—Am. 2014, Act 383, Imd. Eff. Dec. 18, 2014.

780.654 Search warrant; direction of warrant; contents; order to suppress affidavit.

Sec. 4. (1) A search warrant shall be directed to the sheriff or any peace officer, commanding the sheriff or peace officer to search the house, building, or other location or place, where the person, property, or thing for which the sheriff or peace officer is required to search is believed to be concealed. Each warrant shall designate and describe the house or building or other location or place to be searched and the property or thing to be seized.

(2) The warrant shall either state the grounds or the probable or reasonable cause for its issuance or shall have attached to it a copy of the affidavit.

(3) Upon a showing that it is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness, the magistrate may order that the affidavit be suppressed and not be given to the person whose property was seized or whose premises were searched until that person is charged with a crime or named as a claimant in a civil forfeiture proceeding involving evidence seized as a result of the search.

History: 1966, Act 189, Eff. Mar. 10, 1967;—Am. 2002, Act 112, Eff. Apr. 22, 2002;—Am. 2009, Act 11, Imd. Eff. Apr. 9, 2009.

780.655 Property seized upon search; tabulation; filing; suppression order; custody;

restoration to owner; disposition of other property.

Sec. 5. (1) When an officer in the execution of a search warrant finds any property or seizes any of the other things for which a search warrant is allowed by this act, the officer, in the presence of the person from whose possession or premises the property or thing was taken, if present, or in the presence of at least 1 other person, shall make a complete and accurate tabulation of the property and things that were seized. The officer taking property or other things under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and shall give to the person a copy of the tabulation upon completion, or shall leave a copy of the warrant and tabulation at the place from which the property or thing was taken. The officer is not required to give a copy of the affidavit to that person or to leave a copy of the affidavit at the place from which the property or thing was taken.

(2) The officer shall file the tabulation promptly with the judge or district court magistrate. The tabulation may be suppressed by order of the judge or district court magistrate until the final disposition of the case unless otherwise ordered. The property and things that were seized shall be safely kept by the officer so long as necessary for the purpose of being produced or used as evidence in any trial.

(3) As soon as practicable, stolen or embezzled property shall be restored to the owner of the property. Other things seized under the warrant shall be disposed of under direction of the judge or district court magistrate, except that money and other useful property shall be turned over to the state, county or municipality, the officers of which seized the property under the warrant. Money turned over to the state, county, or municipality shall be credited to the general fund of the state, county, or municipality.

History: 1966, Act 189, Eff. Mar. 10, 1967;—Am. 2002, Act 112, Eff. Apr. 22, 2002;—Am. 2014, Act 383, Imd. Eff. Dec. 18, 2014.

780.656 Service of warrant; officer's authorization to use force.

Sec. 6. The officer to whom a warrant is directed, or any person assisting him, may break any outer or inner door or window of a house or building, or anything therein, in order to execute the warrant, if, after notice of his authority and purpose, he is refused admittance, or when necessary to liberate himself or any person assisting him in execution of the warrant.

History: 1966, Act 189, Eff. Mar. 10, 1967.

780.657 Executing search warrant; wilfully exceeding authority; penalty.

Sec. 7. Any person who in executing a search warrant, wilfully exceeds his authority or exercises it with unnecessary severity, shall be fined not more than $1,000.00 or imprisoned not more than 1 year.

History: 1966, Act 189, Eff. Mar. 10, 1967.

780.658 Unlawful procurement of search warrant; penalty.

Sec. 8. Any person who maliciously and without probable cause procures a search warrant to be issued and executed shall be fined not more than $1,000.00 or imprisoned not more than 1 year.

History: 1966, Act 189, Eff. Mar. 10, 1967.

780.659 Repeal.

Sec. 9. Sections 1, 2, 3 and 5 of chapter 16 of Act No. 175 of the Public Acts of 1927, as amended, being sections 776.1, 776.2, 776.3 and 776.5 of the Compiled Laws of 1948, are repealed.

History: 1966, Act 189, Eff. Mar. 10, 1967.

GRANTING IMMUNITY TO WITNESSES
Act 289 of 1968

AN ACT to authorize certain judges to grant immunity to witnesses upon application of prosecuting attorneys; to permit grants of immunity to witnesses issued subpoenas or compelled to testify or produce evidence in certain investigations and proceedings by public officials or agencies; to prescribe the procedures therefor; and to prescribe penalties for refusal to testify and for giving false testimony.

History: 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

The People of the State of Michigan enact:

780.701 Order granting immunity; application by prosecuting attorney; verified statement; determination to grant immunity.

Sec. 1. (1) The prosecuting attorney may apply to the following, as applicable, for an order granting immunity to any person designated by name and address in the application who might give testimony concerning the violation charged in the complaint and warrant or alleged in the petition:

(a) The examining magistrate at a preliminary examination.

(b) The trial judge at a trial for a felony or misdemeanor.

(c) The judge at an adjudication for a juvenile alleged to be within the court's jurisdiction under section 2(a)(*i*) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or a probable cause hearing or trial in 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.

(2) The application shall be accompanied by the prosecuting attorney's verified statement setting forth the facts upon which the application is based.

(3) If the judge determines that it is in the interest of justice that immunity be granted, the judge shall enter an order granting immunity to the witness if the witness appears before the court in the proceeding and testifies truthfully under oath concerning any matter or thing of which the witness knows concerning matters charged in the complaint and warrant or alleged in the petition, as set forth in the prosecuting attorney's application.

History: 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

780.702 Delivery of order to witness; applicability of order; transcript of answers; use of truthful testimony or information against witness in criminal case.

Sec. 2. (1) A true copy of the order granting immunity shall be delivered to the witness before he or she answers any questions subsequently asked at the proceeding. The order granting immunity applies until the judge informs the witness that the immunity no longer applies.

(2) All questions of the witness and his or her answers shall be transcribed at the judge's direction. A true and certified copy of the transcript shall be delivered to the witness as soon as practicable after transcription.

(3) Truthful testimony or other truthful information compelled under the order granting immunity and any information derived directly or indirectly from that truthful testimony or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to comply with the order.

History: 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

780.702a Order granting immunity; application by public official or agency authorized to compel testimony or produce evidence; verified statement; determination to grant immunity; delivery of order to witness; transcript of answers; use of truthful testimony, evidence, or other information against witness in criminal case; application for order granting immunity under other statute.

Sec. 2a. (1) A public official or agency authorized by a statute of this state to issue a subpoena or otherwise compel the testimony of a witness or the production of evidence in an investigation or proceeding authorized by that statute, or authorized to seek a subpoena or compelled testimony or production of evidence from a court, may apply to the court required to issue the subpoena or compel the testimony or production of evidence or otherwise to the circuit court of the county in which the investigation or proceeding is conducted for an order granting immunity to a person who might give testimony or produce evidence concerning the investigation or subject of the proceeding.

(2) The application shall designate the person by name and address. The public official or agency shall

include a verified statement setting forth the facts upon which the application is based.

(3) If the court determines that it is in the interests of justice to grant immunity, the court shall enter an order granting immunity to the witness if the witness testifies truthfully or produces evidence in the investigation or proceeding concerning the investigation or subject of the proceeding.

(4) A true copy of the order granting immunity shall be delivered to the witness before he or she answers any questions subsequently asked at the investigation or proceeding or is required to produce any evidence. The order granting immunity applies until the court informs the witness that the immunity no longer applies.

(5) All questions of the witness and his or her answers shall be transcribed. A true and certified copy of the transcript shall be delivered to the witness as soon as practicable after transcription.

(6) Truthful testimony, evidence, or other truthful information compelled under the order granting immunity and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to comply with the order.

(7) If a statute described in subsection (1) grants or permits immunity to a witness compelled to testify or produce evidence that is different in nature from the immunity authorized under this section, the public official or agency may apply for an order granting immunity under this section as an alternative to the immunity granted or permitted under that statute.

History: Add. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

780.703 Failure or refusal to testify at proceeding after grant of immunity; contempt.

Sec. 3. A witness who fails or refuses to testify at a proceeding described in this act after service of a true copy of the order granting the witness immunity is guilty of contempt.

History: 1968, Act 289, Eff. Nov. 15, 1968;—Am. 1999, Act 249, Imd. Eff. Dec. 28, 1999.

780.704 False testimony; perjury, penalty.

Sec. 4. A person who wilfully swears falsely under oath in regard to any matter or thing upon which he is being examined under a grant of immunity is subject to the penalties of perjury as prescribed by law.

History: 1968, Act 289, Eff. Nov. 15, 1968.

780.705 Right to counsel.

Sec. 5. A witness granted immunity as provided by this act has the right to representation by counsel at all times at his request.

History: 1968, Act 289, Eff. Nov. 15, 1968.

****** Act 620 of 1978 THIS TITLE, BEGINNING WITH THE FIRST INSTANCE OF "AN ACT", IS AMENDED EFFECTIVE OCTOBER 1, 2024: THIS AMENDED TITLE, BEGINNING WITH THE SECOND INSTANCE OF "AN ACT", IS EFFECTIVE OCTOBER 1, 2024 ******

APPELLATE DEFENDER ACT
Act 620 of 1978

AN ACT relating to criminal procedure; to provide for the defense of persons accused or convicted of criminal offenses; to create the appellate defender commission; to provide for an appellate defender; to prescribe powers and duties; to provide facilities, personnel, and related assistance and services for the appellate defender and the commission; and to provide for the financing of the administration of this act. AN ACT relating to indigent appellate defense; to provide for the defense of certain indigent individuals; to create the appellate defender commission; to provide for an appellate defender; to prescribe powers and duties; to provide facilities, personnel, and related assistance and services for the appellate defender and the commission; and to provide for the financing of the administration of this act.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979;—Am. 2023, Act 299, Eff. Oct. 1, 2024.

The People of the State of Michigan enact:

780.711 Short title.

Sec. 1. This act shall be known and may be cited as the "appellate defender act".

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

****** 780.711a.added THIS ADDED SECTION IS EFFECTIVE OCTOBER 1, 2024 ******

780.711a.added Definitions.

Sec. 1a. As used in this act:

(a) "Adult" means either of the following:

(*i*) An individual who is eligible to appeal a criminal conviction or exercise any other postconviction remedy.

(*ii*) An individual who is eligible to appeal an order issued under section 2d or 4 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d and 712A.4.

(b) "Indigent" means that term as defined in section 3 of the Michigan indigent defense commission act, 2013 PA 93, MCL 780.983.

(c) "Indigent defense system" or "system" means either of the following:

(*i*) The local unit of government that funds a trial court.

(*ii*) If a trial court is funded by more than 1 local unit of government, those local units of government, collectively.

(d) "Local contribution" means an indigent defense system's average annual expenditure for attorney fees and expenses during the first 3 full fiscal years in which the system has complied with the standard procedure established under section 8a(2), excluding expenditures reimbursed under section 8a(4). If the Consumer Price Index has increased since November 1 of the prior state fiscal year, the local contribution must be adjusted by that percentage or 3%, whichever is less.

(e) "Youth" means an individual who is eligible to appeal an order issued under section 2(a), (d), or (h) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

History: Add. 2023, Act 299, Eff. Oct. 1, 2024.

****** 780.712 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 1, 2024: See 780.712.amended ******

780.712 Appellate defender commission; creation; appointment, qualifications, and terms of members; compensation and expenses; development of system of indigent appellate defense services; development and adoption of minimum standards; roster of attorneys; appointment by trial court or referral; continuing legal education training program.

Sec. 2. (1) An appellate defender commission is created within the office of the state court administrator. The appellate defender commission consists of 7 members appointed by the governor for terms of 4 years. Of the 7 members, 2 members shall be recommended by the supreme court of this state, 1 member shall be recommended by the court of appeals of this state, 1 member shall be recommended by the Michigan judges

association, 2 members shall be recommended by the state bar of Michigan, and 1 member, who shall not be an attorney, shall be selected from the general public by the governor. A member of the commission shall not be at the time of appointment a sitting judge, a prosecuting attorney, or a law enforcement officer.

(2) Initially 4 members of the commission shall be appointed for terms of 4 years and 1 member each for terms of 1, 2, and 3 years respectively.

(3) Members of the commission shall not receive a salary in that capacity but shall be reimbursed for their reasonable actual and necessary expenses by the state treasurer upon the warrant of the state treasurer.

(4) The commission shall be responsible for the development of a system of indigent appellate defense services which shall include services provided by the office of the state appellate defender, provided for under section 3, and locally appointed private counsel.

(5) The commission shall be responsible for the development of minimum standards to which all indigent criminal defense appellate services shall conform. Within 180 days after appointment of the commission and whenever the commission deems it advisable after that period, the commission shall submit proposed standards to the supreme court. Upon approval of the proposed standards by the supreme court, the commission shall adopt the standards.

(6) The commission shall compile and keep current a statewide roster of attorneys eligible for and willing to accept appointment by an appropriate court to serve as criminal appellate defense counsel for indigents. The appointment of criminal appellate defense services for indigents shall be made by the trial court from the roster provided by the commission or shall be referred to the office of the state appellate defender.

(7) The commission shall provide a continuing legal education training program for its staff and the private attorneys who appear on the roster for purposes of appointment for indigent criminal defense appellate service.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

****** 780.712.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2024 ******

780.712.amended Appellate defender commission; creation; appointment, qualifications, and terms of members; compensation and expenses; development of system of appellate defense services; development and adoption of minimum standards; roster of attorneys; appointment; continuing legal education training program.

Sec. 2. (1) An appellate defender commission is created within the office of the state court administrator. The appellate defender commission consists of 9 members appointed by the governor for terms of 4 years. The members of the commission must be determined as follows:

(a) Two members must be recommended by the supreme court of this state.

(b) One member must be recommended by the court of appeals of this state.

(c) One member must be recommended by the Michigan Judges Association.

(d) Two members must be recommended by the State Bar of Michigan.

(e) One member must be recommended by the Michigan Indian Judicial Association.

(f) Two members who are not attorneys must be selected from the general public by the governor to represent the interests of individuals who have been impacted by the youth or adult justice system.

(g) A member appointed to the commission under subdivisions (a) to (f) shall not be, at the time of appointment, a sitting judge, a prosecuting attorney, or a law enforcement officer.

(2) Initially 4 members of the commission shall be appointed for terms of 4 years and 1 member each for terms of 1, 2, and 3 years respectively.

(3) Members of the commission shall not receive a salary in that capacity but must be reimbursed for their reasonable actual and necessary expenses by the state treasurer upon the warrant of the state treasurer.

(4) The commission shall be responsible for the development of both of the following:

(a) A system of appellate defense services for indigent adults.

(b) A system of appellate defense services for indigent youth.

(5) Both of the systems described in subsection (4) must include services provided by both of the following:

(a) The office of the state appellate defender created in section 3.

(b) Locally appointed private counsel.

(6) The commission shall be responsible for the development of minimum standards to which all indigent appellate defense services for adults and youth shall conform. Whenever the commission deems it advisable, the commission shall submit proposed standards to the supreme court. Upon approval of the proposed standards by the supreme court, the commission shall adopt the standards.

(7) The commission shall compile and keep current both of the following:

(a) A statewide roster of attorneys eligible for, and willing to accept, appointment to serve as appellate defense counsel for indigent adults.

(b) A statewide roster of attorneys eligible for, and willing to accept, appointment to serve as appellate defense counsel for indigent youth.

(8) The appointment of appellate defense services for indigent adults and youth must be made from the applicable roster described in subsection (7), or referred to the office of the state appellate defender.

(9) The commission shall provide a continuing legal education training program for its staff and the private attorneys who appear on the rosters described in subsection (7).

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979;—Am. 2023, Act 299, Eff. Oct. 1, 2024.

780.713 Appellate defender; appointment; dismissal; duties.

Sec. 3. (1) An appellate defender shall be appointed and serve at the pleasure of the appellate defender commission. An appellate defender shall not be dismissed except for cause determined after a hearing. Dismissal shall require a majority vote of the commission.

(2) The appellate defender shall appoint and supervise the work of a deputy appellate defender and assistant appellate defenders and supporting personnel as authorized by the commission.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

***** *780.714 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 1, 2024: See 780.714.amended* *****

780.714 Appellate defender, deputy appellate defender, and assistant appellate defender; qualifications, duties, and restrictions; court employees.

Sec. 4. (1) The appellate defender, deputy appellate defender, and each assistant appellate defender shall:

(a) Be an attorney licensed to practice law in this state.

(b) Take and subscribe to the oath required by the constitution before taking office.

(c) Perform duties as may be provided by law.

(d) Represent the indigent defendant only subsequent to a conviction or entry of a guilty plea or plea of nolo contendere at the trial court level.

(e) Not engage in the practice of law or as an attorney or counselor in a court of this state except in the exercise of his duties under this act.

(2) For purposes of this act the appellate defender, the deputy appellate defender, the assistant appellate defender, and support personnel shall be considered as court employees and not as classified civil service employees.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

***** *780.714.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2024* *****

780.714.amended Appellate defender, deputy appellate defender, and assistant appellate defender; qualifications, duties, and restrictions; court employees.

Sec. 4. (1) An individual shall not serve as an appellate defender, deputy appellate defender, or assistant appellate defender unless the individual is an attorney licensed to practice law in this state.

(2) The appellate defender, the deputy appellate defender, and each assistant appellate defender shall do all of the following:

(a) Take and subscribe to the oath required by the constitution before taking office.

(b) Perform duties as may be provided by law.

(c) Represent the following individuals:

(*i*) An indigent adult only subsequent to a conviction or entry of a guilty plea or plea of nolo contendere at the trial court level.

(*ii*) An indigent youth only subsequent to an appealable order.

(3) The appellate defender and the deputy appellate defender shall not engage in the practice of law or as an attorney or counselor in a court of this state except in the exercise of the duties prescribed by this act.

(4) For purposes of this act, the appellate defender, the deputy appellate defender, each assistant appellate defender, and support personnel are considered court employees and are not classified civil service employees.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979;—Am. 2023, Act 299, Eff. Oct. 1, 2024.

780.715 Salaries and expenses; post audits; space and equipment.

Sec. 5. (1) The salaries of the appellate defender, deputy appellate defender, assistant appellate defenders, and supporting personnel shall be established by the commission.

(2) The appellate defender, deputy appellate defender, assistant appellate defenders, and supporting personnel shall be reimbursed for their reasonable actual and necessary expenses by the state treasurer upon the warrant of the state treasurer.

(3) Salaries and expenses attributable to the office of appellate defender shall be paid out of funds available for those purposes in accordance with the accounting laws of this state. The auditor general, under authority of section 53 of article 4 of the state constitution of 1963, shall perform post audits utilizing the same policies and criteria that are used to audit executive branch agencies.

(4) Within appropriations provided by law, the department of management and budget shall provide the office of appellate defender with suitable space and equipment in the city of Detroit and at other locations the commission considers necessary.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

***** *780.716 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 1, 2024: See 780.716.amended* *****

780.716 Appellate defender; duties generally.

Sec. 6. The appellate defender shall:

(a) Conduct an appeal of a felony conviction or conduct other post conviction remedies on behalf of a person for whom the appellate defender is assigned as attorney by a court of a record.

(b) Provide investigatory and other services necessary for a complete appellate review or appropriate post conviction remedy.

(c) Accept only that number of assignments and maintain a caseload which will insure quality criminal defense appellate services consistent with the funds appropriated by the state. However, the number of cases assigned to the appellate defender office shall not be less than 25% of the total criminal defense appellate cases for indigents pending before the appellate courts of this state.

(d) Maintain a repository of briefs prepared by the appellate defender and make those briefs available to private attorneys providing criminal defense appellate services for indigents.

(e) Perform other duties required by law as directed by the commission.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

***** *780.716.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2024* *****

780.716.amended Appellate defender; duties generally.

Sec. 6. The appellate defender shall do all of the following:

(a) Conduct an appeal of a felony conviction or conduct other postconviction remedies on behalf of an indigent adult for whom the appellate defender is assigned as attorney.

(b) Conduct an appeal of an order or conduct other appropriate postdisposition remedies on behalf of an indigent youth for whom the appellate defender is assigned as attorney.

(c) Provide investigatory and other services necessary for a complete appellate review or appropriate postconviction or postdisposition remedy, as applicable.

(d) Accept only that number of assignments and maintain a caseload which will ensure quality appellate defense services for indigent adults and youth consistent with the funds appropriated by the state. However, the number of cases assigned to the appellate defender office must not be less than 25% of the total appellate defense cases for indigent adults and youth pending before the appellate courts of this state.

(e) Maintain a repository of briefs prepared by the appellate defender and make those briefs available to private attorneys providing appellate defense services for indigent adults and youth.

(f) Perform other duties required by law as directed by the commission.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979;—Am. 2023, Act 299, Eff. Oct. 1, 2024.

***** *780.717 THIS SECTION IS AMENDED EFFECTIVE OCTOBER 1, 2024: See 780.717.amended* *****

780.717 Special assistant appellate defenders; appointment; duties; payment on contract basis; practice of law not restricted.

Sec. 7. The appellate defender may appoint special assistant appellate defenders to represent indigent persons or to assist in the representation of an indigent person at any stage of appellate or post conviction proceedings, upon rules adopted by the commission. Special assistant appellate defenders shall be paid on a

contract basis approved by the commission within funds available to the commission and shall not be subject to the restrictions on the practice of law contained in section 4.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

***** *780.717.amended THIS AMENDED SECTION IS EFFECTIVE OCTOBER 1, 2024* *****

780.717.amended Special assistant appellate defenders; appointment; duties; payment on contract basis; practice of law not restricted.

Sec. 7. (1) The appellate defender may appoint special assistant appellate defenders to do any of the following:

(a) Represent indigent adults or otherwise assist in the representation of indigent adults at any stage of appellate or postconviction proceedings, upon rules adopted by the commission.

(b) Represent indigent youth or otherwise assist in the representation of indigent youth at any stage of appellate proceedings, upon rules adopted by the commission.

(2) A special assistant appellate defender shall be paid on a contract basis approved by the commission within funds available to the commission.

(3) A special assistant appellate defender is not subject to the restrictions on the practice of law applicable to the appellate defender, deputy appellate defender, and assistant appellate defender under section 4.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979;—Am. 2023, Act 299, Eff. Oct. 1, 2024.

780.718 Office of appellate defender; funding.

Sec. 8. The office of the appellate defender shall be funded in the following manner:

(a) The legislature may annually appropriate funds necessary to insure the continued operation of the appellate defender commission and the office of the appellate defender.

(b) The appellate defender commission may receive grants from the federal government, from private or public foundations, or from any person whether individual or corporate.

(c) The cost of any transcript shall be borne by the county.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

***** *780.718a.added THIS ADDED SECTION IS EFFECTIVE OCTOBER 1, 2024* *****

780.718a.added Indigent defense system; fees and expenses; standard procedures; reimbursement.

Sec. 8a. (1) An indigent defense system is responsible for the payment of reasonable fees and expenses for the services provided by locally appointed private counsel under section 2.

(2) The commission shall establish a standard procedure for both of the following:

(a) The payment of locally appointed private counsel by indigent defense systems as described in subsection (1).

(b) The reimbursement of indigent defense systems as described in subsection (4).

(3) The standard procedure established under subsection (2)(a) must include rates and policies that are consistent with the standards established under section 11(2)(b) of the Michigan indigent defense commission act, 2013 PA 93, MCL 780.991.

(4) Subject to appropriation, if an indigent defense system pays locally appointed private counsel under subsection (2) pursuant to the rates and policies established under subsection (3), the state shall reimburse the system for 1/2 of the expenditures of the system. After a system has complied with subsection (2) for 3 full fiscal years, the state shall reimburse the system for all expenditures exceeding the system's local contribution. It is the intent of the legislature to fully fund this reimbursement.

History: Add. 2023, Act 299, Eff. Oct. 1, 2024.

780.719 Record; report.

Sec. 9. The appellate defender shall keep a record of services rendered and expenses incurred and shall annually file a report of those services, expenses, and warrants with the commission and the legislature.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

WILLIAM VAN REGENMORTER CRIME VICTIM'S RIGHTS ACT
Act 87 of 1985

AN ACT to establish the rights of victims of crime and juvenile offenses; to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers' agents toward victims; and to provide for penalties and remedies.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 22, Eff. June 1, 1988.

The People of the State of Michigan enact:

ARTICLE 1

780.751 Short title.

Sec. 1. This act shall be known and may be cited as the "William Van Regenmorter crime victim's rights act".

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

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

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

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

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

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

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

(h) "Juvenile facility" means a county facility, institution operated as an agency of the county or the family division of circuit 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.

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

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

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

(*l*) "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, or a special prosecuting attorney.

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

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

(*ii*) The following individuals other than the defendant 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 the deceased victim if sub-subparagraphs (A) and (B) do not apply.

(D) The guardian or custodian of a child of the 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 the victim, if the victim is less than 18 years of age, who is neither the defendant 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 defendant 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 defendant:

(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)(m)(*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 a crime 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.

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

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, 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. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2009, Act 28, Eff. July 1, 2009;—Am. 2014, Act 133, 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."

780.752a Duty to provide notice to victim; furnishing information or records; exception for address confidentiality program.

Sec. 2a. (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 276, Imd. Eff. Dec. 29, 2020.

780.753 Information to be given victim.

Sec. 3. Within 24 hours after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, 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: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

780.754 Return of property to victim; retention of evidence.

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

(2) The agency shall not return property which 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 crime 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: 1985, Act 87, Eff. Oct. 9, 1985.

780.754a Victim of identity theft; filing police report; jurisdiction; "identity theft" defined.

Sec. 4a. (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.

780.755 Victim to be given notice of availability of pretrial release, telephone number of sheriff or juvenile facility, and notice of right to contact sheriff or juvenile facility; revocation of bond or personal recognizance.

Sec. 5. (1) Not later than 24 hours after the arraignment of the defendant for a crime, the law enforcement agency having responsibility for investigating the crime shall give to the victim notice of the availability of pretrial release for the defendant, the telephone number of the sheriff or juvenile facility, and notice that the victim may contact the sheriff or juvenile facility to determine whether the defendant 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 defendant, or both, if the victim requests or has requested that information. If the defendant 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 defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

780.756 Notice to be given victim; consultation with prosecuting attorney; persons to be informed of victim's current address and telephone number.

Sec. 6. (1) Not later than 7 days after the defendant's arraignment for a crime, but not less than 24 hours before a preliminary examination, the prosecuting attorney 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 the processing of a criminal case.

(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.

(2) If the victim requests, the prosecuting attorney shall give the victim notice of any scheduled court proceedings and any changes in that schedule.

(3) Before finalizing any negotiation that may result in a dismissal, plea or sentence bargain, or pretrial diversion, 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 prosecution for the crime, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

(4) A victim who receives a notice under subsection (1) and who 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, until final disposition or completion of the appellate process, whichever occurs later.

(b) The department of corrections or the sheriff, as the prosecuting attorney directs, if the defendant is imprisoned.

(c) The department of health and human services or county juvenile agency, as the prosecuting attorney directs, if the defendant is held in a juvenile facility.

(d) The hospital or facility, as the prosecuting attorney directs, if the defendant is hospitalized in or admitted to a hospital or a facility.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, 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. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2020, Act 276, Imd. Eff. Dec. 29, 2020.

780.757 Waiting area for victim or other safeguards.

Sec. 7. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense 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 defendant, defendant's relatives, and defense witnesses during court proceedings.

History: 1985, Act 87, Eff. Oct. 9, 1985.

780.758 Motion not to compel testimony of victim or other witness; hearing; address and phone number of victim not to be in court file or documents; exemption from disclosure; exception.

Sec. 8. (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial 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) The work address and address of the victim must not be in the court file or ordinary court documents unless contained in a transcript of the trial or it is used to identify the place of the crime. The work telephone number and telephone number of the victim must not be in the court file or ordinary court documents except as contained in a transcript of the trial.

(3) 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, 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, unless the address is used to identify the place of the crime.

(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.

(4) Subsection (3) does not preclude the release of information to a victim advocacy organization or agency for the purpose of providing victim services.

History: 1985, Act 87, Eff. Oct. 9, 1985;—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.

780.759 Speedy trial; requirements; hearing; notice; time of trial.

Sec. 9. (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 chief judge, 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 of the date of the filing of the motion. 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: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1993, Act 341, Eff. May 1, 1994.

780.760 Conference with victim by prosecuting attorney.

Sec. 10. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the selection of the jury and prior to the trial of the defendant.

History: 1985, Act 87, Eff. Oct. 9, 1985.

780.761 Presence of victim at trial; sequestering victim.

Sec. 11. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies. The victim shall not be sequestered after he or she first testifies.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001.

780.762 Discharge or discipline of victim or victim representative by employer or employer's agent as misdemeanor; penalty; “victim representative” defined.

Sec. 12. (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 assaultive crime if the victim of the assaultive crime is less than 18 years of age.

(c) A person who has been designated under section 2(2) to act in place of a victim of an assaultive crime during the duration of the victim's physical or emotional disability.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1993, Act 341, Eff. May 1, 1994.

780.763 Notice to be given victim by prosecuting attorney; means; contents of impact statement.

Sec. 13. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

(a) The defendant's conviction.

(b) The crimes for which the defendant was convicted.

(c) The victim's right to make a written or oral impact statement for use in the preparation of a presentence investigation report concerning the defendant.

(d) The address and telephone number of the probation office which is to prepare the presentence investigation report.

(e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.

(f) The victim's right to make an impact statement at sentencing.

(g) The time and place of the sentencing proceeding.

(2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.

(3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to 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 sentence.

History: 1985, Act 87, Eff. Oct. 9, 1985.

780.763a Providing victim with form to receive certain notices.

Sec. 13a. (1) When a defendant is sentenced to probation, sentenced to a term of imprisonment, ordered to be placed in a juvenile facility, or hospitalized in or admitted to a hospital or a facility, the prosecuting attorney shall provide the victim with a form the victim may submit to receive the notices provided for under section 18b, 19, 19a, 20, or 20a. The form must include the address of the court, the department of corrections, the sheriff, the department of health and human services, the county juvenile agency, or the hospital or facility, 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.

(2) If the defendant is sentenced to probation, the department of corrections or the sheriff, as applicable, shall notify the victim if the probation is revoked and the defendant is sentenced to the department of corrections or to jail for more than 90 days. The notice must include a form the victim may submit to the department of corrections or the sheriff to receive notices under section 19, 20, or 20a.

(3) If the department of corrections determines that a defendant who was, in the defendant's judgment of sentence, not prohibited from being or permitted to be placed in the special alternative incarceration unit established under section 3 of the special alternative incarceration act, 1988 PA 287, MCL 798.13, meets the eligibility requirements of section 34a(2) and (3) of the corrections code of 1953, 1953 PA 232, MCL 791.234a, the department of corrections shall notify the victim, if the victim has submitted a written request for notification under section 19, of the proposed placement of the defendant in the special alternative incarceration unit not later than 30 days before placement is intended to occur. In making the decision on whether or not to object to the placement of the defendant in a special alternative incarceration unit as required by section 34a(4) of the corrections code of 1953, 1953 PA 232, MCL 791.234a, the sentencing judge or the judge's successor shall review an impact statement submitted by the victim under section 14.

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. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2006, Act 461, Eff. Jan. 1, 2007;—Am. 2020, Act 276, Imd. Eff. Dec. 29, 2020.

780.764 Impact statement generally.

Sec. 14. The victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing a presentence investigation report concerning the defendant pursuant to section 14 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.14. A victim's written statement shall upon the victim's request, be included in the presentence investigation report.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001.

780.765 Oral impact statement at sentencing; physical presence of defendant; remote option; 2018 PA 153 may be cited as "Rebekah Bletsch law".

Sec. 15. (1) The victim has the right to appear and make an oral impact statement at the sentencing of the defendant. 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) Unless the court has determined, in its discretion, that the defendant is behaving in a disruptive manner or presents a threat to the safety of any individuals present in the courtroom, the defendant 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 defendant being physically present during that victim's oral impact statement. This subsection applies to cases in which the sentencing of the defendant occurs after May 22, 2018.

(3) 2018 PA 153, which amended this section and sections 43 and 75, may be cited as the "Rebekah Bletsch law".

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, 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.

780.766 "Victim" defined; restitution; order; condition of probation, parole, or sentence; revocation of probation or parole; petition to modify payment method; lien; enforcement; failure to pay restitution; payment by parent of juvenile; definitions; review; report or petition; compliance; copy of order to department of corrections; disposition of unclaimed restitution; amendment of order; effect of bankruptcy; victim as minor.

Sec. 16. (1) As used in this section only, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime. 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 a crime.

(2) Except as provided in subsection (8), when sentencing a defendant convicted of a crime, the court shall order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make full restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate. For an offense that is resolved by assignment of the defendant 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 a crime results in damage to or loss or destruction of property of a victim of the crime or results in the seizure or impoundment of property of a victim of the crime, the order of restitution shall require that the defendant 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 sentencing. 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 a crime results in physical or psychological injury to a victim, the order of restitution shall require

that the defendant 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 crime.

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

(e) Pay an amount equal to the reasonably determined costs of homemaking and child care expenses actually incurred and reasonably expected to be incurred as a result of the crime 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 crime 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 a crime 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 defendant 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 crime. 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 defendant make restitution under this section within a specified period or in specified installments.

(11) If the defendant is placed on probation or paroled or the court imposes a conditional sentence as provided in section 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any restitution ordered under this section shall be a condition of that probation, parole, or sentence. The court may revoke probation or impose imprisonment under the conditional sentence and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole or impose imprisonment, the court or parole board shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(12) Subject to subsection (18), a defendant 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 sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant 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 defendant 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 defendant shall not be imprisoned, jailed, or incarcerated for a violation of probation or parole or otherwise for failure to pay restitution as ordered under this section unless the court or parole board determines that the defendant 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 a 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:

(a) "Juvenile" means a person within the court's jurisdiction under section 2d or 4 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d and 712A.4.

(b) "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 defendant to make regularly scheduled restitution payments. If the defendant misses 2 or more regularly scheduled payments, the court shall order the defendant to execute a wage assignment to pay the restitution. The 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 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 probation officer determines at any review that restitution is not being paid as ordered, the 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 probation officer. The 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 a defendant 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 defendant 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: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1986, Act 234, Imd. Eff. Oct. 6, 1986;—Am. 1988, Act 21, 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. 1998, Act 232, Imd. Eff. July 3, 1998;—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."

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.

780.766a Fines, costs, and assessments or payments other than victim payments; allocation of payments; priority; "victim payment" defined.

Sec. 16a. (1) If a person 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 person 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 person 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 person 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 16 or from the department of corrections or sheriff under section 17a, 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.

780.766b Conviction of offense described in MCL 750.462a to 750.462h; restitution.

Sec. 16b. When sentencing a defendant convicted of an offense described in chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h, the court shall order restitution for the full amount of loss suffered by the victim. In addition to restitution ordered under section 16, the court may order the defendant to pay all of the following:

(a) Lost income, calculated by whichever of the following methods results in the largest amount:

(*i*) The gross amount received by the defendant from or the value to the defendant of the victim's labor or services.

(*ii*) The value of the victim's labor or services as calculated under the minimum wage law of 1964, 1964 PA 154, MCL 408.381 to 408.398, or the federal minimum wage, whichever results in the largest value.

(*iii*) Income loss as determined under section 16(4)(c).

(b) The cost of transportation, temporary housing, and child care expenses incurred by the victim because of the offense.

(c) Attorney fees and other costs and expenses incurred by the victim because of the offense, including, but not limited to, costs and expenses relating to assisting the investigation of the offense and for attendance at related court proceedings as follows:

(*i*) Wages lost.

(*ii*) Child care.

(*iii*) Transportation.

(*iv*) Parking.

(d) Any other loss suffered by the victim as a proximate result of the offense.

History: Add. 2010, Act 364, Eff. Apr. 1, 2011;—Am. 2014, Act 340, Eff. Jan. 14, 2015.

780.767 Amount of restitution; order; consideration; order to obtain information; disclosures; resolving dispute as to amount and type of restitution.

Sec. 17. (1) In determining the amount of restitution to order under section 16, the court shall consider the amount of the loss sustained by any victim as a result of the offense.

(2) The court may order the probation officer to obtain information pertaining to the amounts of loss described in subsection (1). The probation officer shall include the information collected in the presentence investigation report or in a separate report, as the court directs.

(3) The court shall disclose to both the defendant and the prosecuting attorney all portions of the

presentence 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.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1996, Act 562, Eff. June 1, 1997.

780.767a Deductions and payments.

Sec. 17a. (1) If a defendant who has been sentenced to the department of corrections is ordered to pay restitution under section 16, and if the defendant receives more than $50.00 in a month, the department of corrections shall deduct 50% of the amount over $50.00 received by the defendant 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 defendant is paroled, transferred to community programs, or discharged on the maximum sentence.

(2) If a defendant who has been sentenced to jail is ordered to pay restitution under section 16, and if the defendant receives more than $50.00 in a month, the sheriff may deduct 50% of the amount over $50.00 received by the defendant for payment of the restitution, and 5% of the amount over $50.00 received by the defendant 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 defendant is released to probation or discharged on the maximum sentence.

(3) The department of corrections or sheriff, as applicable, shall notify the defendant 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 or sheriff shall not enter into any agreement with a defendant 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.

780.768 Sale of recollections of thoughts and feelings of convicted person; proceeds to be held in escrow; disposition of proceeds.

Sec. 18. (1) A person convicted of a crime 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 defendant, expenses of incarceration are paid under subsection (3), and any balance in the escrow account created under subsection (2) is paid under subsection (4):

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

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

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

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

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

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

(c) The sale of property of the defendant, the value of which has been enhanced or increased by the defendant'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 16.

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

(c) Any reimbursement ordered under the prisoner reimbursement to the county act, 1984 PA 118, MCL 801.81 to 801.93, or the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406.

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

(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 in section 4 of 1989 PA 196, MCL 780.904.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

780.768a Notice to victim; explanation of appeal process; rights of victim if conviction reversed.

Sec. 18a. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the defendant filed an appeal of his or her conviction or sentence or that the prosecuting attorney filed an appeal.

(b) Whether the defendant has been ordered released on bail or other recognizance pending the disposition of the appeal. If the prosecuting attorney is notified that the defendant 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 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 trial 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 21, 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.

780.768b Early termination of probation; notice to victim.

Sec. 18b. If a defendant 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.

780.769 Request for notice by victim; exemption of victim's address and telephone number from disclosure.

Sec. 19. (1) Upon the written request of any individual who was a victim of the defendant's course of conduct that gave rise to the conviction, the sheriff or the department of corrections shall mail to that victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff or the department for that crime:

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

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

(c) Notice of the prisoner's release or pending release in a community residential program or under furlough; 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 that the person accused, convicted, or imprisoned for committing a crime against the victim has escaped from custody, as provided in section 20.

(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 prisoner's release on parole during the time the prisoner's release on parole or commutation of sentencing is being considered, as provided in section 21.

(*ii*) The victim's right 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 prisoner's release on parole, after a parole review, as provided in section 21.

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

(h) Notice that the prisoner has applied for a reprieve, commutation, or pardon and the parole board has decided to consider the application.

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

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

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

(*l*) Notice that a prisoner has been convicted of a new crime.

(m) Notice that a prisoner has been returned from parole status to a correctional facility due to an alleged violation of the conditions of his or her parole.

(n) Notice that the prisoner, 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.

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

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988;—Am. 1996, Act 105, Eff. Apr. 1, 1996;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—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.

780.769a Defendant found not guilty by reason of insanity; notice to victim from director of hospital or facility.

Sec. 19a. (1) On a victim's written request, the director of a hospital or facility where a defendant found not guilty by reason of insanity has been hospitalized or admitted by court order shall notify the victim of the following:

(a) A pending transfer of the defendant to a less secure hospital or facility.

(b) A pending transfer of the defendant to alternative care or treatment, community placement, or aftercare reintegration.

(c) A pending leave, absence, furlough, or other release from confinement for the defendant, whether temporary or permanent.

(2) A notice required by subsection (1) shall be given by any means reasonably calculated to give the victim prompt actual notice.

(3) A victim's address and telephone number maintained by a hospital or facility under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: Add. 2005, Act 184, Eff. Jan. 1, 2006.

780.770 Notice of escape.

Sec. 20. (1) The person designated in subsections (2) to (4) shall give a victim who requests notice and the prosecuting attorney who is prosecuting or has prosecuted the crime for which a defendant is detained, under sentence, hospitalized, or admitted to a facility immediate notice of the escape of the defendant accused, convicted, imprisoned, hospitalized, or admitted to a facility for committing a crime against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(2) If notice is required under this section and the defendant escapes from custody before sentence is executed or before the defendant is delivered to the department of corrections, hospitalized, or admitted to a facility, the chief law enforcement officer of the agency in charge of the person's detention shall give notice to the prosecuting attorney that the defendant has escaped, who shall then give notice to the victim who requested that notice. The notice shall be provided to the victim within 24 hours after the defendant is reported to have escaped.

(3) If the defendant is confined under a sentence, the notice required under this section shall be given by the chief administrator of the place in which the prisoner is confined.

(4) If the defendant is hospitalized under an order of hospitalization or admitted to a facility under an order

of admission, the notice required under this section shall be given by the director of the hospital in which the defendant is hospitalized or by the director of the facility to which the defendant is admitted.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2012, Act 564, Eff. Mar. 28, 2013.

780.770a Notice to victim by family independence agency or county juvenile agency; escape by juvenile.

Sec. 20a. (1) Upon a victim's written request, the family independence agency or county juvenile agency, as applicable, shall make a good faith effort to notify the victim before either of the following occurs:

(a) A juvenile is dismissed from court jurisdiction or discharged from commitment to the family independence agency or county juvenile agency.

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

(2) If the family independence agency or county juvenile agency is not successful in notifying the victim before an event described in subsection (1) occurs, it shall notify the victim as soon as possible after that event occurs by any means reasonably calculated to give prompt actual notice.

(3) Upon the victim's written request, the family independence agency or county juvenile agency, as applicable, shall give to the victim notice of a juvenile's escape. 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. If the escape occurs before the juvenile is delivered to the family independence agency or county juvenile agency, the agency in charge of the juvenile's detention shall give notice of the escape to the family independence agency or county juvenile agency, which shall then give notice of the escape to the victim who requested notice.

History: Add. 1993, Act 341, Eff. May 1, 1994;—Am. 1998, Act 523, Imd. Eff. Jan. 12, 1999.

780.770b Notice of review hearing.

Sec. 20b. Upon the victim's request, the prosecuting attorney shall give the victim notice of a review hearing conducted pursuant to section 1b of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 769.1b of the Michigan Compiled Laws. The victim has the right to make a statement at the hearing, submit a written statement for use at the hearing, or both.

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

780.771 Rights of victim; notice of pending review and victim's rights; representation of counsel; notice of board or panel decision; exemption from disclosure.

Sec. 21. (1) A victim has the right to do both of the following:

(a) 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 prisoner's release on parole during the time the prisoner's release on parole or commutation of sentencing is being considered.

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

(2) Not less than 30 days before a review of the prisoner's release, a victim who has requested notice under section 19(1)(f) shall be given written notice by the department of corrections informing the victim of the pending review and of victims' rights under this section. The victim, at his or her own expense, may be represented by counsel at the review.

(3) A victim shall receive notice of the decision of the board or panel and, if applicable, notice of the date of the prisoner's release on parole. Notice shall be mailed within a reasonable time after the board or panel reaches its decision but not later than 14 days after the board or panel has reached its decision. The notice shall include a statement of the victim's right to appeal a parole decision, as allowed under section 34 of the corrections code of 1953, 1953 PA 232, MCL 791.234.

(4) A record of an oral statement or a written statement made under subsection (1) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be released.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—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.

780.772 Notice of final disposition of case.

Sec. 22. Upon the request of a victim, the prosecuting attorney shall, within 30 days of the final disposition

of the case, notify the victim in writing of the final disposition of the case.

History: 1985, Act 87, Eff. Oct. 9, 1985.

780.772a Notice to victim of defendant's application to have conviction for assaultive crime set aside; "assaultive crime" defined.

Sec. 22a. If a defendant applies to have a conviction for an assaultive crime set aside under Act No. 213 of the Public Acts of 1965, being sections 780.621 to 780.624 of the Michigan Compiled Laws, and if the name of the victim is known by the prosecuting attorney, the prosecuting attorney shall give to the victim of the assaultive crime 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 Act No. 213 of the Public Acts of 1965 concerning that conviction and make a written or oral statement. As used in this section, "assaultive crime" means that term as defined in section 9a of chapter X of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 770.9a of the Michigan Compiled Laws.

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

780.773 Cause of action not created.

Sec. 23. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, or instrumentalities, or employees.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988.

780.774 Failure to provide right, privilege, or notice to victim.

Sec. 24. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988.

780.775 Effective date of article; applicability.

Sec. 25. (1) This article shall take effect October 9, 1985.

(2) This article shall apply only to crimes committed on or after October 9, 1985.

History: 1985, Act 87, Eff. Oct. 9, 1985;—Am. 1988, Act 21, Eff. June 1, 1988.

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 XIIA 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.

ARTICLE 3

780.811 Definitions; physical or emotional inability of victim to exercise privileges and rights; ineligibility to exercise privileges and rights.

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

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

(*i*) A violation of section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, assault and battery, including domestic violence.

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

(*iii*) Beginning January 1, 2024, a violation of section 81c(1) of the Michigan penal code, 1931 PA 328, MCL 750.81c, threatening a department of health and human services' employee with physical harm.

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

(*v*) A violation of section 136b(7) of the Michigan penal code, 1931 PA 328, MCL 750.136b, child abuse in the fourth degree.

(*vi*) A violation of section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145, contributing to the neglect or delinquency of a minor.

(*vii*) A misdemeanor violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d, using the internet or a computer to make a prohibited communication.

(*viii*) Beginning January 1, 2024, a violation of section 174a(2) or (3)(b) of the Michigan penal code, 1931 PA 328, MCL 750.174a, embezzlement from a vulnerable adult of an amount of less than $200.00.

(*ix*) Beginning January 1, 2024, a violation of section 174a(3)(a) of the Michigan penal code, 1931 PA 328, MCL 750.174a, embezzlement from a vulnerable adult of an amount of $200.00 to $1,000.00.

(*x*) A violation of section 233 of the Michigan penal code, 1931 PA 328, MCL 750.233, intentionally aiming a firearm without malice.

(*xi*) A violation of section 234 of the Michigan penal code, 1931 PA 328, MCL 750.234, discharge of a firearm intentionally aimed at a person.

(*xii*) A violation of section 235 of the Michigan penal code, 1931 PA 328, MCL 750.235, discharge of an intentionally aimed firearm resulting in injury.

(*xiii*) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.

(*xiv*) A violation of section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h, stalking.

(*xv*) A violation of section 601b(2) of the Michigan vehicle code, 1949 PA 300, MCL 257.601b, injuring a worker in a work zone.

(*xvi*) Beginning January 1, 2024, a violation of section 601d(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d, moving violation causing death.

(*xvii*) Beginning January 1, 2024, a violation of section 601d(2) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d, moving violation causing serious impairment of a body function.

(*xviii*) A violation of section 617a of the Michigan vehicle code, 1949 PA 300, MCL 257.617a, leaving the scene of a personal injury accident.

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

(*xx*) Selling or furnishing alcoholic liquor to an individual less than 21 years of age in violation of 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.

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

(*xxii*) A violation of a local ordinance substantially corresponding to a violation enumerated in subparagraphs (*i*) to (*xxi*).

(*xxiii*) A violation charged as a crime or serious misdemeanor enumerated in subparagraphs (*i*) to (*xxii*) but subsequently reduced to or pleaded to as a misdemeanor. As used in this subparagraph, "crime" means that term as defined in section 2.

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

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

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

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

(f) "Prisoner" means an individual who has been convicted and sentenced to imprisonment for having committed a serious misdemeanor against a victim.

(g) "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.

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

(*i*) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a serious misdemeanor, except as provided in subparagraph (*ii*), (*iii*), (*iv*), or (*v*).

(*ii*) The following individuals other than the defendant 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 defendant nor incarcerated, if the parent, guardian, or custodian so chooses.

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

(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)(h)(*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, or 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 place of the victim. 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 a serious misdemeanor, a crime as defined in section 2, or an offense as defined in section 31 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.

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

History: Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 1996, Act 82, Imd. Eff. Feb. 27, 1996;—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 130, Eff. July 1, 2014;—Am. 2018, Act 370, Eff. Mar. 17, 2019;—Am. 2023, Act 177, Eff. Feb. 13, 2024.

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."

780.811a Statement of property damage, physical injury, or death.

Sec. 61a. A law enforcement officer or prosecuting attorney who files with the court a complaint, appearance ticket, traffic citation, or other charging instrument regarding a serious misdemeanor described in section 61(1)(a)(*xix*), (*xx*), or (*xxi*), or a local ordinance substantially corresponding to a serious misdemeanor described in section 61(1)(a)(*xix*), (*xx*), or (*xxi*), shall place a statement on the complaint, appearance ticket, traffic citation, or other charging instrument 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;—Am. 2005, Act 184, Eff. Jan. 1, 2006;—Am. 2023, Act 177, Eff. Feb. 13, 2024.

780.811b Duty to provide notice to victim; furnishing information or records; exception for address confidentiality program.

Sec. 61b. (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 277, Imd. Eff. Dec. 29, 2020.

780.812 Separate written statement.

Sec. 62. A law enforcement officer investigating a serious misdemeanor involving a victim shall include with the complaint, appearance ticket, or traffic citation filed with the court a separate written statement including the name, address, and phone number of each victim. This separate statement shall not be a matter of public record.

History: Add. 1988, Act 21, Eff. June 1, 1988.

780.813 Information to be given victim of serious misdemeanor.

Sec. 63. (1) Within 24 hours after the initial contact between the victim of a reported serious misdemeanor and the law enforcement agency having the responsibility for investigating that serious misdemeanor, 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.".

(2) If the case against the defendant is brought under a local ordinance, the law enforcement agency having responsibility for investigating the serious misdemeanor shall give to the victim the name and business address of the local prosecuting attorney for the political subdivision responsible for prosecuting the case along with the following statement:

"The defendant in your case will be prosecuted under a local ordinance, rather than a state statute. Nonetheless, you have all the rights and privileges afforded to victims under the state constitution and the state crime victim's rights act.".

History: Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001.

780.813a Revocation of bond or personal recognizance.

Sec. 63a. Based upon any credible evidence of acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.

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

780.814 Return of property to victim; exceptions.

Sec. 64. (1) The law enforcement agency having responsibility for investigating a reported serious misdemeanor shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

(2) The agency shall not return property which 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 serious misdemeanor 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 21, Eff. June 1, 1988.

780.814a Victim of identity theft; filing police report; jurisdiction; "identity theft" defined.

Sec. 64a. (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.

780.815 Victim to be given notice of availability of pretrial release, phone number of sheriff, and notice of right to contact sheriff.

Sec. 65. Not later than 72 hours after the arrest of the defendant for a serious misdemeanor, the law enforcement agency having responsibility for investigating the serious misdemeanor shall give to the victim notice of the availability of pretrial release for the defendant, the phone number of the sheriff, and notice that the victim may contact the sheriff to determine whether the defendant 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 defendant, or both, if the victim requests or has requested that information. If the defendant is released from custody by the sheriff, the sheriff shall notify the law enforcement agency having responsibility for investigating the crime.

History: Add. 1988, Act 21, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

780.816 Notice to prosecuting attorney and to victim; consultation by victim with prosecuting attorney; dismissal of case; keeping prosecuting attorney and sheriff informed of victim's current address and telephone number.

Sec. 66. (1) If a plea of guilty or nolo contendere is accepted by the court at the time of the arraignment of the defendant for a serious misdemeanor, the court shall notify the prosecuting attorney of the plea and the date of sentencing within 48 hours after the arraignment. If no guilty or nolo contendere plea is accepted at the arraignment and further proceedings will be scheduled, the court shall so notify the prosecuting attorney within 48 hours after the arraignment. A notice to the prosecuting attorney under this subsection must be on a separate form and must include the name, address, and telephone number of the victim. The notice is not a

public record and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Within 48 hours after receiving this notice, the prosecuting attorney 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 the processing of a misdemeanor case, including pretrial conferences.

(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.

(2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) If the defendant has not already entered a plea of guilty or nolo contendere at the arraignment, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of the serious misdemeanor, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs before finalizing any negotiation that may result in a dismissal, plea or sentence bargain, or pretrial diversion.

(4) If the case against the defendant is dismissed at any time, the prosecuting attorney shall notify the victim of the dismissal within 48 hours.

(5) A victim who receives a notice under subsection (1) or (2) and who 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, until final disposition or completion of the appellate process, whichever occurs later.

(b) The sheriff, if the defendant is imprisoned for more than 92 days.

History: Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2020, Act 277, Imd. Eff. Dec. 29, 2020.

780.817 Separate waiting area for victim; safeguards.

Sec. 67. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense 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 defendant, defendant's relatives, and defense witnesses during court proceedings.

History: Add. 1988, Act 21, Eff. June 1, 1988.

780.818 Testimony of victim or other witness; consent of victim; hearing; exemption from disclosure; exception.

Sec. 68. (1) Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial 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, 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 21, 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.

780.819 Expedited trial.

Sec. 69. An expedited trial may be scheduled for any case in which the victim is averred by the prosecuting attorney to be a child.

History: Add. 1988, Act 21, Eff. June 1, 1988.

780.820 Conference prior to trial.

Sec. 70. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the trial of the defendant.

History: Add. 1988, Act 21, Eff. June 1, 1988.

780.821 Right of victim to be present at trial; sequestering of victim.

Sec. 71. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, 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 21, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

780.822 Discharge or discipline of victim or victim representative by employer or employer's agent as misdemeanor; penalty; “victim representative” defined.

Sec. 72. (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 assaultive serious misdemeanor if the victim of the assaultive serious misdemeanor is less than 18 years of age.

(c) A person who has been designated under section 61(2) to act in place of a victim of an assaultive serious misdemeanor during the duration of the victim's physical or emotional disability.

History: Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1993, Act 341, Eff. May 1, 1994.

780.823 Additional notice to victim; means; contents of impact statement.

Sec. 73. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

(a) The defendant's conviction.

(b) The offenses for which the defendant was convicted.

(c) If a presentence investigation report is to be prepared, the victim's right to make a written or oral impact statement for use in the preparation of the presentence investigation report concerning the defendant.

(d) The address and telephone number of the probation office which is to prepare the presentence investigation report.

(e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.

(f) The victim's right to make an impact statement at sentencing.

(g) The time and place of the sentencing proceeding.

(2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.

(3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to 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 sentence.

History: Add. 1988, Act 21, Eff. June 1, 1988.

780.824 Preparation of presentence investigation report; written or oral impact statement; inclusion of statement in presentence investigation report.

Sec. 74. If a presentence investigation report concerning the defendant is prepared, the victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing the report pursuant to section 14 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.14. A victim's written statement shall, upon the victim's request, be included in the presentence investigation report.

History: Add. 1988, Act 21, Eff. June 1, 1988;—Am. 2000, Act 503, Eff. June 1, 2001.

780.825 Notice of sentencing; impact statement; physical presence of defendant; remote option; 2018 PA 153 may be cited as "Rebekah Bletsch law".

Sec. 75. (1) If no presentence report is prepared, the court shall notify the prosecuting attorney of the date and time of sentencing at least 10 days before the sentencing. The victim has the right to submit a written impact statement and has the right to appear and make an oral impact statement at the sentencing of the defendant. 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. The court shall consider the victim's statement in imposing sentence on the defendant.

(2) Unless the court has determined, in its discretion, that the defendant is behaving in a disruptive manner or presents a threat to the safety of any individuals present in the courtroom, the defendant 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 defendant being physically present during that victim's oral impact statement. This subsection applies to cases in which the sentencing of the defendant occurs after May 22, 2018.

(3) 2018 PA 153, which amended this section and sections 15 and 43, may be cited as the "Rebekah Bletsch law".

History: Add. 1988, Act 21, Eff. June 1, 1988;—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.

780.826 Definitions; restitution by defendant convicted of misdemeanor.

Sec. 76. (1) As used in this section only:

(a) "Misdemeanor" means a violation of a law of this state or a local ordinance that is punishable by imprisonment for not more than 1 year or a fine that is not a civil fine, but that is not a felony.

(b) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a misdemeanor. 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 a misdemeanor.

(2) Except as provided in subsection (8), when sentencing a defendant convicted of a misdemeanor, the court shall order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make full restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate. For an offense that is resolved by assignment

of the defendant 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 a misdemeanor results in damage to or loss or destruction of property of a victim of the misdemeanor or results in the seizure or impoundment of property of a victim of the misdemeanor, the order of restitution shall require that the defendant 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 sentencing. 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 a misdemeanor results in physical or psychological injury to a victim, the order of restitution shall require that the defendant 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 misdemeanor.

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

(e) Pay an amount equal to the reasonably determined costs of homemaking and child care expenses actually incurred and reasonably expected to be incurred as a result of the misdemeanor 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 misdemeanor 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 a crime 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 defendant 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 misdemeanor. 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 defendant make restitution under this section within a specified period or in specified installments.

(11) If the defendant is placed on probation or the court imposes a conditional sentence as provided in section 3 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any restitution ordered under this section shall be a condition of that probation or sentence. The court may revoke probation or impose imprisonment under the conditional sentence if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or impose imprisonment, the court shall consider the defendant's employment status, earning ability, and financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(12) Subject to subsection (15), a defendant 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 sentencing judge or his or her successor to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the defendant 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 defendant 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 restitution in the same manner as a judgment in a civil action or a lien.

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

(15) In each case in which payment of restitution is ordered as a condition of probation, the court shall order any employed defendant to make regularly scheduled restitution payments. If the defendant misses 2 or more regularly scheduled payments, the court shall order the defendant to execute a wage assignment to pay the restitution. The 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 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 probation officer determines at any review that restitution is not being paid as ordered, the 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 probation officer. The 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.

(16) If the court determines that a defendant 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 defendant is remanded to the department's jurisdiction.

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

(18) 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.

(19) 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.

(20) 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.

(21) If the victim is a minor, the order of restitution shall require the defendant 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 21, 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. 1998, Act 232, Imd. Eff. July 3, 1998;—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."

780.826a Allocation of payments.

Sec. 76a. (1) If a person 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 person 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 person 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 person 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 76 or from the sheriff under section 80a, 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.

780.827 Notice of final disposition of case.

Sec. 77. Upon the request of a victim, the prosecuting attorney shall, within 30 days after the final disposition of the case, notify the victim in writing of the final disposition of the case.

History: Add. 1988, Act 21, Eff. June 1, 1988.

780.827a Notice to victim of defendant's application to have conviction for serious misdemeanor set aside.

Sec. 77a. If a defendant applies to have a conviction for a serious misdemeanor set aside under Act No. 213 of the Public Acts of 1965, being sections 780.621 to 780.624 of the Michigan Compiled Laws, and if the name of the victim is known by the prosecuting attorney, the prosecuting attorney shall give to the victim of the serious misdemeanor 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 Act No. 213 of the Public Acts of 1965 concerning that conviction and make a written or oral statement.

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

780.827b Early termination of probation; notice to victim.

Sec. 77b. If a defendant 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.

780.828 Additional notice to victim; further proceedings or new trial.

Sec. 78. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following:

(a) That the defendant filed an appeal of his or her conviction or sentence or the prosecuting attorney filed an appeal.

(b) Whether the defendant has been ordered released on bail or other recognizance pending the disposition of the appeal. If the prosecuting attorney is notified that the defendant 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 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 trial 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 21, 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.

780.828a Information to be mailed to victim of serious misdemeanor; form to receive notices.

Sec. 78a. (1) Upon the written request of a victim of a serious misdemeanor, the sheriff shall mail to the victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff for commission of that serious misdemeanor:

(a) Within 30 days after the request, notice of the sheriff's calculation of the earliest release date of the prisoner, with all potential good time or disciplinary credits considered if the sentence of imprisonment exceeds 90 days. The victim may request 1-time only notice of the calculation described in this subdivision.

(b) Notice that a prisoner has had his or her name legally changed while imprisoned in the county jail or within 2 years of release from the county jail.

(c) Notice that the prisoner has been placed on day parole or work release.

(2) When a defendant is sentenced to probation or a term of imprisonment, the prosecuting attorney shall provide the victim with a form the victim may submit to receive the notices provided for under this section or section 77b or 78b. The form must include the address of the court, prosecuting attorney, or sheriff's department, 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. 1996, Act 105, Eff. Apr. 1, 1996;—Am. 2000, Act 503, Eff. June 1, 2001;—Am. 2006, Act 461, Eff. Jan. 1, 2007;—Am. 2020, Act 277, Imd. Eff. Dec. 29, 2020.

780.828b Notice of escape.

Sec. 78b. (1) As provided in subsection (2) or (3), a victim who requests notice of the escape and the prosecuting attorney who is prosecuting or has prosecuted the serious misdemeanor for which the person is detained or under sentence shall be given immediate notice of the escape of the person accused, convicted, or imprisoned for committing a serious misdemeanor against the victim. The notice shall be given by any means reasonably calculated to give prompt actual notice.

(2) If the escape occurs before the sentence is executed or before the defendant is delivered to the sheriff, the chief law enforcement officer of the agency in charge of the person'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.

(3) If the defendant is confined pursuant to a sentence, the notice shall be given by the chief administrator of the place in which the prisoner is confined.

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

780.829 Notice of release of defendant; written request.

Sec. 79. (1) Upon the written request of the victim, the sheriff shall notify the victim of the earliest possible release date of the defendant if the defendant is sentenced to more than 92 days' imprisonment.

(2) The victim's written request for notice under this section shall include the victim's address.

History: Add. 1988, Act 21, Eff. June 1, 1988.

780.830 Exemption of victim's address and telephone number from disclosure.

Sec. 80. A victim's address and telephone number maintained by a court or a sheriff pursuant to this article is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1988, Act 21, Eff. June 1, 1988.

780.830a Deductions and payments.

Sec. 80a. (1) If a defendant who has been sentenced to jail is ordered to pay restitution under section 76,

and if the defendant receives more than $50.00 in a month, the sheriff may deduct 50% of the amount over $50.00 received by the defendant for payment of the restitution, and 5% of the amount over $50.00 received by the defendant 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 defendant is released to probation or discharged on the maximum sentence.

(2) The sheriff shall notify the defendant 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 sheriff shall not enter into any agreement with a defendant 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.

780.831 Profit from sale of recollections of thoughts and feelings of person convicted; misdemeanor; forfeiture; escrow account; distribution of proceeds.

Sec. 81. (1) A person convicted of a serious misdemeanor 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 defendant, expenses of incarceration are paid under subsection (3), and any balance in the escrow account created under subsection (2) is paid under subsection (4):

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

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

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

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

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

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

(c) The sale of property of the defendant, the value of which has been enhanced or increased by the defendant'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 76.

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

(c) Any reimbursement ordered under the prisoner reimbursement to the county act, 1984 PA 118, MCL 801.81 to 801.93, or ordered under the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406.

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

(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 in section 4 of 1989 PA 196, MCL 780.904.

History: Add. 1988, Act 21, Eff. June 1, 1988;—Am. 1996, Act 562, Eff. June 1, 1997;—Am. 2005, Act 184, Eff. Jan. 1, 2006.

780.832 No cause of action against state or local government.

Sec. 82. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, instrumentalities, or employees.

History: Add. 1988, Act 21, Eff. June 1, 1988.

780.833 Failure to provide right, privilege, or notice to victim.

Sec. 83. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

History: Add. 1988, Act 21, Eff. June 1, 1988.

780.834 Effective date of article; applicability.

Sec. 84. (1) This article shall take effect June 1, 1988.

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

History: Add. 1988, Act 21, Eff. June 1, 1988.

ADDRESS CONFIDENTIALITY PROGRAM ACT
Act 301 of 2020

AN ACT to create the address confidentiality program; to provide certain protections for victims of domestic violence, sexual assault, stalking, or human trafficking and for certain other individuals; to prescribe duties and responsibilities of certain state departments; to require the promulgation of rules; to create a fund; to prohibit the disclosure of certain information and obtaining a certification under this act by fraud; and to prescribe penalties.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

The People of the State of Michigan enact:

780.851 Short title.

Sec. 1. This act shall be known and may be cited as the "address confidentiality program act".

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.853 Definitions.

Sec. 3. As used in this act:

(a) "Application assistant" means an employee or volunteer at an agency or organization that serves victims of domestic violence, stalking, human trafficking, or sexual assault who has received training and certification from the department of the attorney general to help individuals complete applications to become program participants.

(b) "Confidential address" means the address of a program participant's residence, as specified on an application to be a program participant or on a notice of change of information as provided under section 5 that is classified confidential by the department of the attorney general.

(c) "Designated address" means the mailing address at which the department of technology, management, and budget receives mail to forward to program participants.

(d) "Domestic violence" means the occurrence of any of the following acts by a person that is not an act of self-defense:

(*i*) Causing or attempting to cause physical or mental harm to a family or household member.

(*ii*) Placing a family or household member in fear of physical or mental harm.

(*iii*) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.

(*iv*) Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(e) "Family or household member" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(f) "Governmental entity" means this state, a local unit of government, or any department, agency, board, commission, or other instrumentality of this state or a local unit of government.

(g) "Guardian of a ward" means a person who has qualified as a guardian of a legally incapacitated individual under a court appointment.

(h) "Human trafficking" means a violation of chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.462a to 750.462h.

(i) "Law enforcement agency" means that term as defined in section 2 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.602.

(j) "Local unit of government" means a city, village, township, or county in this state.

(k) "Minor" means an individual under the age of 18 who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6.

(*l*) "Municipally owned utility" means electric, gas, or water services provided by a municipality.

(m) "Program" means the address confidentiality program created under this act.

(n) "Program participant" means an individual who is certified by the department of the attorney general as a program participant under section 5.

(o) "Sexual assault" means a violation, attempted violation, or solicitation or conspiracy to commit a violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(p) "Stalking" means that term as defined in section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(q) "Victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as

the result of a commission of a crime.

(r) "Victim advocate" means an employee of the department of the attorney general, the department of state, or the department of technology, management, and budget, or an employee of a county prosecutor's office, who has received training and certification from the department of the attorney general to help individuals complete applications to become program participants, and who is available to help individuals complete the applications and is responsible for assisting program participants in navigating through and accessing all aspects of the program.

(s) "Ward" means that term as defined in section 1108 of the estates and protected individuals code, 1998 PA 386, MCL 700.1108.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.855 Address confidentiality program; creation; eligibility; application; duties of attorney general; certification of program participant; renewal or cancellation; minor; participation card; applicability to custody or parenting order.

Sec. 5. (1) Subject to section 19(4), the address confidentiality program is created in the department of the attorney general.

(2) Except for an individual described in subsection (13), the following individuals are eligible to apply to the program and may submit an application, with the assistance of an application assistant or a victim advocate, for certification as a program participant by the department of the attorney general:

(a) If changing his or her residence, an individual who is 18 years of age or older or is an emancipated minor under 1968 PA 293, MCL 722.1 to 722.6.

(b) If changing the residence of a minor, a legal parent or the guardian of the minor appointed by a court.

(c) If the residence of a ward is changing, the guardian of that ward if the guardian is granted the power to apply by a court under section 5306 of the estates and protected individuals code, 1998 PA 386, MCL 700.5306.

(3) The application under subsection (2) must be filed with the department of the attorney general in the manner and form prescribed by the department of the attorney general and must contain the following:

(a) A notarized statement that meets 1 of the following requirements:

(*i*) If the applicant is an individual described under subsection (2)(a), a statement by that individual that disclosure of the address provided under subdivision (d) will increase the risk that he or she will be threatened or physically harmed by another person or that the individual is a victim of domestic violence, stalking, human trafficking, or sexual assault.

(*ii*) If the applicant is the legal parent of a minor or the guardian of a minor appointed by a court, a statement by that parent of a minor or guardian that disclosure of the address provided under subdivision (d) will increase the risk that the minor will be threatened or physically harmed by another person or that the parent or guardian, or the minor, is a victim of domestic violence, stalking, human trafficking, or sexual assault.

(*iii*) If the applicant is the guardian of a ward as provided under subsection (2)(c), a statement by that guardian that the disclosure of the address provided under subdivision (d) will increase the risk that the ward will be threatened or physically harmed by another person or that the ward is a victim of domestic violence, stalking, human trafficking, or sexual assault.

(b) A knowing and voluntary designation of the department of technology, management, and budget as the agent for the purposes of receiving mail and service of process.

(c) The mailing address, telephone number, and electronic mail address, if applicable, at which the department of the attorney general, the department of state, or the department of technology, management, and budget, may contact the individual, minor, or ward.

(d) The address of residence that the applicant requests not be disclosed.

(e) The signature of the applicant, the name and signature of the application assistant or victim advocate who assisted the applicant, and the date the application was signed.

(4) The application under subsection (2) may provide an option for an applicant to select the type of victimization the applicant believes warrants the need for participation in the program. The department of the attorney general may not consider information provided or withheld under this subsection in certifying a program participant.

(5) The department of the attorney general shall do all of the following after an individual, the parent or guardian of a minor, or a guardian of a ward files a completed application:

(a) Except as provided in subsection (6), certify the individual, minor, or ward as a program participant.

(b) Issue the program participant a unique identification number and a participation card.

(c) Classify each eligible address listed in the application as a confidential address.

(d) Provide the program participant with information concerning the manner in which the program participant may use the department of technology, management, and budget as the agent of the program participant for the purposes of receiving mail and service of process.

(e) If the program participant is eligible to vote, provide the program participant with information concerning the process to register to vote and to vote as a program participant under the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(f) Provide the program participant with information concerning the procedure from which the program participant will receive a corrected operator's or chauffeur's license under section 310f of the Michigan vehicle code, 1949 PA 300, MCL 257.310f, a corrected enhanced driver license or enhanced official state personal identification card under section 4 of the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.304, or a corrected official state personal identification card under section 2a of 1972 PA 222, MCL 28.292a.

(g) Provide the program participant with information regarding methods to protect a confidential address, including, but not limited to, information regarding the risks of disclosing the confidential address to other persons and the risks of using social media and other similar electronic technologies, including geotagging photographs; and other information that the attorney general determines would help the program participant protect his or her confidential address.

(6) An individual, minor, or ward must not be certified as a program participant if the department of the attorney general knows the confidential address provided in the application as described in subsection (3)(d) is an address that has been provided to the secretary of state for that individual, minor, or ward.

(7) A program participant shall update information provided in an application within 30 days after a change to that information has occurred by submitting a notice of change of information to the department of the attorney general on a form prescribed by the department of the attorney general.

(8) Unless the certification is canceled under section 9, the certification of a program participant is valid for 4 years from the date listed on the application under subsection (3), on the renewal application under subsection (10), or on the certification continuance application under subsection (11).

(9) The department of the attorney general may, with proper notice, cancel the certification of a program participant as provided under section 9.

(10) A program participant who continues to be eligible to participate in the program may renew the certification of the program participant. The renewal application must be on a form prescribed by the department of the attorney general and must meet the requirements under subsections (2) and (3). A renewal of certification of the program participant must not alter the unique identification number issued under subsection (5)(b).

(11) If a program participant certified as a minor becomes 18 years of age or older while his or her certification remains valid, the department of the attorney general shall mail a certification continuance application to that program participant. The certification continuance application must be on a form prescribed by the department of the attorney general, must meet the requirements under subsections (2) and (3), and must inform the program participant of his or her right to choose to continue or discontinue in the program. The program participant may continue certification as a program participant after becoming 19 years of age by completing the certification continuance application with the assistance of an application assistant or victim advocate and filing the application before the program participant becomes 19 years of age.

(12) An application submitted under this act and the information of a program participant described under section 15(1) is confidential, is not a public record, is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and may only be disclosed as authorized under this act.

(13) An offender who is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, is not eligible to submit an application and must not be certified as a program participant.

(14) The department of the attorney general shall create a participation card for the program. A participation card must contain the name and unique identification number of a program participant, and the designated address.

(15) The certification of a minor as a program participant does not prohibit a parent or guardian from voluntarily disclosing the minor's confidential address.

(16) The certification of a minor as a program participant does not amend or affect the enforceability of a custody or parenting time order issued by a court of competent jurisdiction, affect a parent's right to initiate a child custody action or use friend of the court services, or otherwise limit a court's authority in a child custody action.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.857 Use of designated address by governmental entity, employer, school, or institution of higher education; mail and service of process duties; inapplicable to municipally owned utility.

Sec. 7. (1) A program participant may request that a governmental entity use the designated address as the program participant's address. Except as otherwise provided in subsection (6) and in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, if a request is made under this subsection, a governmental entity shall use the designated address. The program participant may provide his or her participation card as proof of his or her certification as a program participant.

(2) If a program participant's employer, school, or institution of higher education is not a governmental entity, the program participant may request that the employer, school, or institution of higher education use the designated address as the program participant's address.

(3) The department of technology, management, and budget shall, on each day the department of technology, management, and budget is open for business, place all first-class, registered, or certified mail of a program participant that the department of technology, management, and budget receives into an envelope or package and mail that envelope or package to the program participant at the mailing address the program participant provided on the application under section 5(3)(c) for that purpose. The department of technology, management, and budget may contract with the United States Postal Service for special rates for the mail forwarded under this subsection. Service by mail under this subsection of court papers, other than service of process, is complete 3 mailing days after the department of technology, management, and budget forwards the mail to the program participant.

(4) Upon receiving service of process on behalf of a program participant, the department of technology, management, and budget shall immediately forward the process by certified mail, return receipt requested, to the program participant at the mailing address the program participant provided on the application under section 5(3)(c) for that purpose.

(5) If a person intends to serve process on an individual and makes an inquiry with the department of the attorney general or the department of technology, management, and budget to determine if the individual is a program participant, the department of the attorney general or the department of technology, management, and budget shall only confirm that the individual is or is not a program participant and, except as otherwise allowed under this subsection, must not disclose further information regarding the program participant. If process has been forwarded to a program participant under subsection (4), the department of technology, management, and budget shall disclose the date of mailing to the person attempting to serve the program participant.

(6) Subsection (1) does not apply to a municipally owned utility. The confidential address of a program participant that is maintained by a municipally owned utility must not be released, and is not a public record and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.859 Cancellation of program participant certification; circumstances.

Sec. 9. (1) The department of the attorney general may cancel the certification of a program participant if the program participant is not reachable at the mailing address, telephone number, and any electronic mail address provided under section 5(3)(c) for 60 or more days.

(2) The department of the attorney general shall cancel the certification of a program participant in any of the following circumstances:

(a) The program participant's application contained 1 or more false statements.

(b) The program participant or the legal parent of or a guardian appointed by a court for a minor that is a program participant or the guardian of a ward that is a program participant files a notarized request for cancellation on a form prescribed by the department of the attorney general.

(c) The program participant fails to file a renewal application while the initial certification as a program participant is valid as provided in section 5(8). The department of the attorney general may promulgate a rule to provide for a grace period.

(d) The program participant fails to file a continuance application required under section 5(11) before the program participant becomes 19 years of age.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.861 Request for disclosure of confidential information for legitimate governmental purpose; notice of request to program participant.

Sec. 11. (1) A department of this state, a law enforcement agency, or a local unit of government may

request the department of the attorney general to provide the confidential address, telephone number, and electronic mail address of a program participant if the requesting department of this state, a law enforcement agency, or a local unit of government requires access to the confidential address, telephone number, or electronic mail address of the program participant for a legitimate governmental purpose. A request may only be submitted under this subsection if the department of this state, the law enforcement agency, or the local unit of government was unsuccessful in contacting the program participant using the designated address. Upon receiving a request under this subsection, the department of the attorney general shall confirm whether an individual, minor, or ward is a program participant but may not disclose further information except as provided under subsections (3) and (4).

(2) Upon the filing of a request under this section and if the program participant is not identified in the request as a suspect in a criminal investigation, the department of the attorney general shall promptly provide the program participant with notice of the request.

(3) Subject to subsection (4), the department of the attorney general may grant the request submitted under subsection (1) if the department of the attorney general determines that disclosure of the confidential address, telephone number, or electronic mail address of the program participant to the requesting department of this state, law enforcement agency, or local unit of government is necessary for a legitimate governmental purpose.

(4) If a request submitted under subsection (1) is for the confidential address, telephone number, or electronic mail address of a minor, the department of the attorney general must consider if disclosure of the information requested is harmful to the program participant.

(5) Except as otherwise provided under section 21(2), a person who receives a confidential address, telephone number, or electronic mail address of a program participant under this section shall not disclose that information to another person.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.863 Certification training program for application assistants and victim advocates.

Sec. 13. (1) The department of the attorney general shall develop and offer a training program for application assistants and victim advocates to obtain certification under this act.

(2) The department of the attorney general shall certify a person applying for certification as an application assistant or as a victim advocate under this act if that person has completed the training program under subsection (1). The department of the attorney general shall make available on its website the names and contact information of the application assistants and victim advocates.

(3) An application assistant or victim advocate who provides assistance in accordance with this act does not violate section 916 of the revised judicature act of 1961, 1961 PA 236, MCL 600.916.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.865 Computerized database of program participants; limited access by Michigan intelligence operations center.

Sec. 15. (1) The department of the attorney general must create and maintain a computerized database that contains the name, unique identification number, confidential address, mailing address, telephone number, and any electronic mail address of each program participant. The database must also include information described in section 5(4) that is provided on an application. The department of the attorney general, the department of technology, management, and budget, and the department of state may have access to the database as required to implement this act.

(2) The department of the attorney general must ensure the database under subsection (1) immediately provides the department of technology, management, and budget and the department of state, upon the certification of a program participant, the information listed in subsection (1), and upon the cancellation of a certification of a program participant under section 9, that status.

(3) The Michigan intelligence operations center in the department of state police shall only access the database created under subsection (1) in exigent circumstances and provide a program participant's information to a law enforcement agency if the center receives all of the following information from the law enforcement agency requesting the information:

(a) The originating agency identifier.

(b) A description of the exigent circumstances that require the disclosure of information from the database.

(c) The law enforcement agency's incident report number associated with the exigent circumstances described under subdivision (b).

(d) Whether the program participant is a suspect in a criminal investigation related to the exigent circumstances described under subdivision (b).

(4) The department of state police shall promptly provide the department of the attorney general with notice if a program participant's information is provided to a law enforcement agency under subsection (3). If the program participant is not identified as a suspect in a criminal investigation, the department of the attorney general shall promptly forward the notice to the program participant.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.867 Promulgation of rules.

Sec. 17. The department of the attorney general may, in consultation with the Michigan domestic and sexual violence prevention and treatment board, the department of technology, management, and budget, and the department of state, promulgate rules to implement this act in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.869 Confidential address fund.

Sec. 19. (1) The confidential address fund is created in the state treasury. The fund must be administered by the attorney general.

(2) The state treasurer may receive money and assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year must remain in the fund and must not lapse to the general fund.

(4) The department of the attorney general shall develop and implement the program not more than 2 years after an appropriation is made to the fund to develop and implement the program.

(5) The department of the attorney general shall expend money from the fund, upon appropriation, for the purpose of administering the program.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.871 False statement or unauthorized disclosure; violation; penalties.

Sec. 21. (1) A person shall not knowingly make a false statement in an application submitted under section 5.

(2) Except as otherwise provided by law, a person that is authorized under this act to access a confidential address, telephone number, or electronic mail address of a program participant or that is provided access to a confidential address, telephone number, or electronic mail address of a program participant under section 11 or 15(3) shall not knowingly disclose that confidential address, telephone number, or electronic mail address to any other person unless the disclosure is authorized under this act.

(3) A person that violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

780.873 Address confidentiality program advisory council.

Sec. 23. (1) The department of the attorney general shall establish an address confidentiality program advisory council composed of the following members:

(a) The attorney general, or his or her designee.

(b) The director of the department of technology, management, and budget, or his or her designee.

(c) The secretary of state, or his or her designee.

(d) The executive director of the Michigan Coalition to End Domestic and Sexual Violence, or his or her designee.

(e) The executive director of the Michigan domestic and sexual violence prevention and treatment board, or his or her designee.

(f) A representative of the state court administrative office.

(g) A representative of a unit of local government.

(2) Not later than 4 years after the effective date of this act, the first meeting of the advisory council must be called by the member described under subsection (1)(a).

(3) Except as provided in subsection (6), information collected by the advisory council under this section is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) The advisory council shall not deliberate toward or render a decision on public policy, and a meeting of the advisory council is not a meeting of a public body under the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(5) Members of the advisory council shall serve without compensation. However, members of the advisory council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the advisory council.

(6) The advisory council shall study the operations of and evaluate the program, and prepare and submit a report to the legislature of the findings. The advisory council shall not include in the report the name, confidential address, telephone number, or electronic mail address of a program participant or any other information that could reasonably be expected to identify a program participant. The report submitted under this subsection must be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2020, Act 301, Imd. Eff. Dec. 29, 2020.

CRIME VICTIMS RIGHTS SERVICES
Act 196 of 1989

AN ACT to abolish the criminal assessments commission; to prescribe certain duties of the crime victim services commission; to create the crime victim's rights fund; to provide for expenditures from the fund; to provide for assessments against criminal defendants and certain juvenile offenders; to provide for payment of crime victim's rights services; and to prescribe the powers and duties of certain state and local agencies and departments.

History: 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1997.

The People of the State of Michigan enact:

780.901 Definitions.

Sec. 1. As used in this act:

(a) "Commission" means the crime victim services commission described in section 2 of 1976 PA 223, MCL 18.352.

(b) "Crime victim's rights services" means services required to implement fully the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, and services prescribed under this act.

(c) "Department" means the department of community health.

(d) "Felony" means a violation of a penal law of this state for which the offender, upon conviction, may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(e) "Fund" means the crime victim's rights fund created under section 4.

(f) "Juvenile offense" means an offense committed by a juvenile under the jurisdiction of the juvenile division of the probate court or the family division of circuit court under section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, that if committed by an adult would be a felony, misdemeanor, or ordinance violation, if the juvenile's case is not designated as a case in which the juvenile is to be tried in the same manner as an adult.

History: 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 1996, Act 26, Eff. May 1, 1996;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 396, Imd. Eff. Dec. 29, 2008;—Am. 2011, Act 294, Eff. Apr. 1, 2012.

780.902 Criminal assessments commission; transfer of powers, duties, and jurisdiction to crime victim services commission.

Sec. 2. The criminal assessments commission formerly created under this act is abolished. Its powers, duties, and jurisdiction are transferred to the crime victim services commission.

History: 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1997.

780.903 Crime victim services commission; duties.

Sec. 3. The commission shall do all of the following:

(a) Investigate and determine the amount of revenue needed to pay for crime victim's rights services.

(b) Investigate and determine an appropriate assessment amount to be imposed against convicted criminal defendants and juveniles for whom the probate court or the family division of circuit court enters orders of disposition for juvenile offenses to pay for crime victim's rights services.

(c) By December 31 of each year, report to the governor, the secretary of the senate, the clerk of the house of representatives, and the department the commission's findings and recommendations under this section.

History: 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1997.

780.904 Crime victim's rights fund; creation; investment; expenditures; use of additional excess revenue; report regarding minor crime victims receiving crime victim compensation; "minor crime victim" defined.

Sec. 4. (1) The crime victim's rights fund is created as a separate fund in the state treasury. The state treasurer shall credit to the fund all amounts received under this act and as provided by law. The state treasurer shall invest fund money in the same manner as surplus funds are invested under section 3 of 1855 PA 105, MCL 21.143. Earnings from the fund must be credited to the fund.

(2) The fund must be expended only as provided in this act. Amounts in the fund in excess of the necessary revenue needed to pay for crime victim's rights services as determined by the commission under section 3(a) may be used for crime victim compensation under 1976 PA 223, MCL 18.351 to 18.368, including compensation to minor crime victims. Until September 30, 2022, additional excess revenue of not more than

$3,500,000.00 that has not been used for crime victim compensation may be used to provide for establishment and maintenance of a statewide trauma system, including staff support associated with trauma and related emergency medical services program activities.

(3) Beginning December 31, 2017 and annually after that date, the department shall report all of the following regarding minor crime victims who received crime victim compensation under this section to the legislature:

(a) The number of minor crime victims who received compensation.

(b) The age, gender, and geographic location of minor crime victims who received compensation.

(c) Whether the compensation was used for counseling or other services.

(d) If the compensation was used for counseling, whether the minor crime victim received the counseling during a 1-time visit or over the course of multiple visits.

(4) As used in this section, "minor crime victim" means a crime victim who is less than 18 years of age.

History: 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1997;—Am. 2008, Act 396, Imd. Eff. Dec. 29, 2008;—Am. 2010, Act 202, Imd. Eff. Oct. 5, 2010;—Am. 2010, Act 280, Eff. Apr. 1, 2011;—Am. 2014, Act 299, Imd. Eff. Oct. 3, 2014;—Am. 2015, Act 9, Eff. June 30, 2015;—Am. 2017, Act 15, Eff. June 29, 2017;—Am. 2018, Act 221, Eff. Sept. 24, 2018;—Am. 2021, Act 89, Imd. Eff. Oct. 7, 2021.

780.905 Payment and use of assessments; order; duties of clerk of court.

Sec. 5. (1) The court shall order each person charged with an offense that is a felony, misdemeanor, or ordinance violation that is resolved by conviction, assignment of the defendant to youthful trainee status, a delayed sentence or deferred entry of judgment of guilt, or in another way that is not an acquittal or unconditional dismissal, to pay an assessment as follows:

(a) If the offense is a felony, $130.00.

(b) If the offense is a misdemeanor or ordinance violation, $75.00.

(2) The court shall order a defendant to pay only 1 assessment under subsection (1) per criminal case. Payment of the assessment shall be a condition of a probation order entered under chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1 to 771.14a, or a parole order entered under section 36 of the corrections code of 1953, 1953 PA 232, MCL 791.236.

(3) The court shall order each juvenile for whom the court enters an order of disposition for a juvenile offense to pay an assessment of $25.00. The court shall order a juvenile to pay only 1 assessment under this subsection per case.

(4) Except as otherwise provided under this act, an assessment under this section shall be used to pay for crime victim's rights services.

(5) If a defendant ordered to pay an assessment under this act posted a cash bond or bail deposit in connection with the case, the court shall order the assessment collected out of that bond or deposit as provided in section 15 of chapter V and section 22 of chapter XV of the code of criminal procedure, 1927 PA 175, MCL 765.15 and 775.22, or section 6 or 7 of 1966 PA 257, MCL 780.66 and 780.67.

(6) If a person is subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal or juvenile proceeding, money collected from that person for the payment of fines, costs, restitution, assessments, or other payments shall be allocated as provided in section 22 of chapter XV of the code of criminal procedure, 1927 PA 175, MCL 775.22, or section 29 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.29.

(7) The clerk of the court shall do both of the following on the last day of each month:

(a) Transmit 90% of the assessments received under this section to the department of treasury with a written report of those assessments as the department of treasury prescribes. To provide funding for costs incurred under this section and for providing crime victim's rights services, the court may retain 10% of the assessments received under this section and transmit that amount to the court's funding unit.

(b) Transmit a written report to the department on a form the department prescribes containing all of the following information for that month:

(*i*) The name of the court.

(*ii*) The total number of criminal convictions or dispositions for offenses that if committed by an adult would be criminal obtained in that court.

(*iii*) The total number of defendants or juveniles against whom an assessment was imposed by that court.

(*iv*) The total amount of assessments imposed by that court.

(*v*) The total amount of assessments collected by that court.

(*vi*) Other information required by the department.

History: 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 1996, Act 344, Imd. Eff. June 27, 1996;—Am. 1996, Act 520, Imd. Eff. Jan. 13, 1996;—Am. 2005, Act 315, Eff. Jan. 1, 2006;—Am. 2010, Act 281, Imd. Eff. Dec. 16, 2010;—

Am. 2011, Act 294, Eff. Apr. 1, 2012.

780.906 Service and funding levels; disbursements; adjustments; application for compensation for cost of services; administrative costs.

Sec. 6. (1) The department shall establish service and funding levels for the courts, departments, and local agencies that receive money under this act.

(2) A disbursement to cover the funding level established by the department shall be annually distributed to eligible departments and local agencies.

(3) If the amount retained by the clerk of a court pursuant to section 5(7) is less than the service and funding level for the court established under subsection (1), a disbursement to cover the difference between the amount retained and the funding level established by the department shall be annually distributed to an eligible court.

(4) A department or local agency that provides crime victim's rights services may apply quarterly to the department for an adjustment to the funding level established pursuant to subsection (1). The application shall be on a form provided by the department. The department shall disburse an adjustment to the funding level to an eligible department or local agency.

(5) A court that provides crime victim's rights services may apply annually to the department for compensation for the cost of those services to that court in excess of the greater of the amount retained under section 5(7) or the funding level for the court established pursuant to subsection (1). The application shall be on a form provided by the department.

(6) The department shall compensate units of government for the actual and reasonable administrative costs incurred by those units of government under this act.

History: 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 2005, Act 315, Eff. Jan. 1, 2006.

780.907 Disbursements for crime victim's rights services; priority; financial incentive programs; administrative costs.

Sec. 7. (1) The department shall direct and authorize the state treasurer in writing to disburse money from the fund to pay for crime victim's rights services as required under this act. The department may direct and authorize the state treasurer in writing to disburse money from the fund to pay for crime victims' compensation as provided in section 4(2).

(2) The department shall make the implementation of crime victim's rights a priority, and may develop financial incentive programs to enhance the delivery of crime victim's rights services under this act.

(3) The department shall make disbursements under this act to the treasurer of a unit of government, and the treasurer shall transmit that money to courts, departments, and local agencies within that unit of government as the department directs. The department may withhold a distribution to a unit of government until the treasurer of that unit of government has distributed all previous disbursements made by the department to courts, departments, and local agencies within that unit of government.

(4) The department shall receive disbursements for its administrative costs as authorized by appropriation.

History: 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994.

780.908 Using distribution to maintain or enhance crime victim's rights services.

Sec. 8. A court, department, or local agency that receives a distribution under this act shall use that distribution to maintain or enhance crime victim's rights services.

History: 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994;—Am. 2008, Act 396, Imd. Eff. Dec. 29, 2008.

780.909 Annual estimate of cost and revenue; notice to legislature; covering estimated shortfall.

Sec. 9. The department shall annually estimate the cost of providing crime victim's rights services and the estimated revenue to be received by the crime victim's rights fund. If the estimated revenue is projected to be insufficient to cover the estimated costs of totally funding crime victim's rights services, the department shall notify the legislature and determine whether to request an appropriation or budget transfer to cover the estimated shortfall.

History: 1989, Act 196, Eff. Oct. 30, 1989;—Am. 1993, Act 345, Eff. May 1, 1994.

780.910 Rules.

Sec. 10. The department may promulgate rules to implement this act.

History: 1989, Act 196, Eff. Oct. 30, 1989.

780.911 Effective date.

Sec. 11. This act shall take effect upon the expiration of 60 days after the date of its enactment.

History: 1989, Act 196, Eff. Oct. 30, 1989.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1997-9

780.921 Transfer of powers and duties of crime victim services commission from the department of management and budget to the department of community health by type II transfer.

WHEREAS, Article V, Section 1 of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2 of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Act No. 223 of the Public of 1976, as amended, created the Crime Victims Compensation Board within the Department of Management and Budget; and

WHEREAS, Act No. 196 of 1989, as amended, created the Criminal Assessments Commission within the Department of Management and Budget; and

WHEREAS, Act No. 519 of 1996, being Sections 18.351 et seq. of the Michigan Compiled Laws, renamed the former Crime Victims Compensation Board as the Crime Victim Services Commission, which is the successor agency of the board in all respects and for all purposes; and

WHEREAS, Act No. 520 of 1996, being Sections 780.901 et seq. of the Michigan Compiled Laws, abolished the former Criminal Assessments Commission, and further transferred its powers, duties, and jurisdiction to the Crime Victim Services Commission; and

WHEREAS, management of the Crime Victim Services Commission will be enhanced with increased coordination of efforts, collaboration and communication with other criminal justice related agencies and divisions within the Department of Community Health; and

WHEREAS, the Crime Victim Services Commission is responsible for duties and functions closely related to the duties and functions of divisions within the Michigan Department of Community Health, including, but not limited to, the Office of Drug Control Policy and the Division of Violence, Injury and Surveillance; and

WHEREAS, the Department of Community Health has a role in determining the Medicaid eligibility of applicants, which is a prerequisite for processing a claim for reimbursement for necessary medical expenses under Act No. 519 of 1996 and its constitutional and statutory counterparts; and

WHEREAS, mental health services to children and families provided by the Department of Community Health will serve to assist the counseling needs of crime victims; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the statutory authority, powers, duties, functions and responsibilities of the Crime Victim Services Commission set forth in Act No. 519 and Act No. 520 of the Public Acts of 1996, as amended, are hereby transferred from the Department of Management and Budget to the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Department of Community Health shall administer the assigned functions in such ways as to promote efficient administration and make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Management and Budget shall immediately initiate coordination with the Director of the Department of Community Health to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, and other obligations to be resolved related to the Crime Victim Services Commission or its predecessor Commissions;

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to any entity for the activities, powers, duties, functions and responsibilities transferred to the Department of Community Health by this Order are hereby transferred to the Department of Community Health.

5. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling the financial transactions and records related to this Order and the state's financial management system for the reminder of the fiscal year.

6. All rules, orders, contracts, declaratory rulings, agreements and other actions relating to the functions transferred to the Department of Community Health by this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or rescinded.

7. Any suit, action or other proceeding lawfully commenced by, against or before the Crime Victim Service Commission, or its predecessors, the Crime Victims Compensation Board or the Criminal Assessments Commission, shall not abate by reason of the taking effect of this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective sixty (60) days after filing.

History: 1997, E.R.O. No. 1997-9, Eff. Sept. 6, 1997.

Compiler's note: In the third paragraph of this section, the phrase "Act No. 223 of the Public of 1976" evidently should read "Act No. 223 of the Public Acts of 1976."

In the paragraph numbered "5.", the phrase "for the reminder of the fiscal year" evidently should read "for the remainder of the fiscal year."

SECURITY ACT FOR NUCLEAR ENERGY
Act 113 of 2014

AN ACT to create the security act for nuclear energy; and to clarify the rights and duties of officers providing security at nuclear generating facilities.

History: 2014, Act 113, Eff. July 9, 2014.

The People of the State of Michigan enact:

780.941 Rights and duties of officer providing security at nuclear generating facility; notice of authorization; immunity from civil liability; modification of common law; definitions.

Sec. 1. (1) An officer providing security at a nuclear generating facility may use physical force, other than deadly physical force, against another individual if that officer providing security honestly and reasonably believes that the physical force, other than deadly physical force, is necessary to prevent or terminate that other individual's unlawful trespass at that nuclear generating facility under section 552 of the Michigan penal code, 1931 PA 328, MCL 750.552.

(2) An officer providing security at a nuclear generating facility may use physical force, including deadly physical force, against another individual if the officer providing security honestly and reasonably believes that the use of physical force, including deadly physical force, is necessary to prevent or terminate an individual from breaking and entering or attempting to break and enter into the business premises of a nuclear generating or nuclear storage building or structure with the intent to commit a crime involving the infliction or threatened infliction of serious physical harm to any individual, or to deter a threat of radiological sabotage or a threat of theft or diversion of special nuclear material.

(3) Notwithstanding any other provision of this act, an officer providing security at a nuclear generating facility may threaten to use physical force, including deadly physical force, if the officer providing security honestly and reasonably believes it is necessary to protect himself or herself or another individual against another individual's potential use of physical force, including deadly physical force, or to deter a threat of radiological sabotage or a threat of theft or diversion of special nuclear material.

(4) Notice of the authorization provided in subsection (2) shall be conspicuously posted at all entrances to the business premises of a nuclear generating or nuclear storage building or structure and at intervals along the perimeter in such a manner as to provide reasonable notice of that authorization to persons about to enter.

(5) An officer providing security at a nuclear generating facility, the employer of an officer providing security at a nuclear generating facility, and the owner and the operator of a nuclear generating facility are immune from civil liability for the conduct of an officer providing security at a nuclear generating facility that is lawful under this section.

(6) Except as provided in this section, this section does not modify the common law of this state in existence on the effective date of this act regarding the use of deadly force.

(7) As used in this section:

(a) "Business premises of a nuclear generating or nuclear storage building or structure" means a building or other structure used to generate electricity using nuclear power, or that is used to store special nuclear material associated with or resulting from generating electricity using nuclear power. Business premises of a nuclear generating or nuclear storage building or structure include any appurtenant building or structure and any barrier or barrier system surrounding that building or structure or appurtenant building or structure that is designed to protect against radiological sabotage or theft or diversion of special nuclear material that is required to be designated and posted against trespassing under 42 USC 2278a, or any other substantially equivalent federal law.

(b) "Nuclear generating facility" means 1 or more of the following:

(*i*) A facility that is located in this state that generates electricity using nuclear power for sale, directly or indirectly, to the public.

(*ii*) A facility that is located in this state that was formerly used to generate electricity using nuclear power for sale, directly or indirectly, to the public, and that stores special nuclear material.

(*iii*) The land surrounding a facility described in subparagraph (*i*) or (*ii*) that is in the possession of the facility owner or operator.

(*iv*) Any nuclear generating or nuclear storage building or structure on land described in subparagraph (*iii*).

(c) "Officer providing security at a nuclear generating facility" means a security officer employed by or under contract with a nuclear generating facility who is employed as part of any security plan approved by the United States nuclear regulatory commission or its successor agency and who is performing his or her duties under that plan.

(d) "Special nuclear material" means material capable of a self-sustaining fission chain reaction.

History: 2014, Act 113, Eff. July 9, 2014.

PRESUMPTION REGARDING SELF-DEFENSE
Act 311 of 2006

AN ACT to create a rebuttable presumption regarding the use of self-defense or the defense of others.

History: 2006, Act 311, Eff. Oct. 1, 2006.

The People of the State of Michigan enact:

780.951 Individual using deadly force or force other than deadly force; presumption; definitions.

Sec. 1. (1) Except as provided in subsection (2), it is a rebuttable presumption in a civil or criminal case that an individual who uses deadly force or force other than deadly force under section 2 of the self-defense act has an honest and reasonable belief that imminent death of, sexual assault of, or great bodily harm to himself or herself or another individual will occur if both of the following apply:

(a) The individual against whom deadly force or force other than deadly force is used is in the process of breaking and entering a dwelling or business premises or committing home invasion or has broken and entered a dwelling or business premises or committed home invasion and is still present in the dwelling or business premises, or is unlawfully attempting to remove another individual from a dwelling, business premises, or occupied vehicle against his or her will.

(b) The individual using deadly force or force other than deadly force honestly and reasonably believes that the individual is engaging in conduct described in subdivision (a).

(2) The presumption set forth in subsection (1) does not apply if any of the following circumstances exist:

(a) The individual against whom deadly force or force other than deadly force is used, including an owner, lessee, or titleholder, has the legal right to be in the dwelling, business premises, or vehicle and there is not an injunction for protection from domestic violence or a written pretrial supervision order, a probation order, or a parole order of no contact against that person.

(b) The individual removed or being removed from the dwelling, business premises, or occupied vehicle is a child or grandchild of, or is otherwise in the lawful custody of or under the lawful guardianship of, the individual against whom deadly force or force other than deadly force is used.

(c) The individual who uses deadly force or force other than deadly force is engaged in the commission of a crime or is using the dwelling, business premises, or occupied vehicle to further the commission of a crime.

(d) The individual against whom deadly force or force other than deadly force is used is a peace officer who has entered or is attempting to enter a dwelling, business premises, or vehicle in the performance of his or her official duties in accordance with applicable law.

(e) The individual against whom deadly force or force other than deadly force is used is the spouse or former spouse of the individual using deadly force or force other than deadly force, an individual with whom the individual using deadly force or other than deadly force has or had a dating relationship, an individual with whom the individual using deadly force or other than deadly force has had a child in common, or a resident or former resident of his or her household, and the individual using deadly force or other than deadly force has a prior history of domestic violence as the aggressor.

(3) As used in this section:

(a) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(b) "Business premises" means a building or other structure used for the transaction of business, including an appurtenant structure attached to that building or other structure.

(c) "Dwelling" means a structure or shelter that is used permanently or temporarily as a place of abode, including an appurtenant structure attached to that structure or shelter.

(d) "Law enforcement officer of a Michigan Indian tribal police force" means a regularly employed member of a police force of a Michigan Indian tribe who is appointed pursuant to former 25 CFR 12.100 to 12.103.

(e) "Michigan Indian tribe" means a federally recognized Indian tribe that has trust lands located within this state.

(f) "Peace officer" means any of the following:

(*i*) A regularly employed member of a law enforcement agency authorized and established pursuant to law, including common law, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state. Peace officer does not include a person serving solely because he or she occupies any other office or position.

(*ii*) A law enforcement officer of a Michigan Indian tribal police force.

(*iii*) The sergeant at arms or any assistant sergeant at arms of either house of the legislature who is

commissioned as a police officer by that respective house of the legislature as provided by the legislative sergeant at arms police powers act, 2001 PA 185, MCL 4.381 to 4.382.

(*iv*) A law enforcement officer of a multicounty metropolitan district.

(*v*) A county prosecuting attorney's investigator sworn and fully empowered by the sheriff of that county.

(*vi*) Until December 31, 2007, a law enforcement officer of a school district in this state that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent federal decennial census.

(*vii*) A fire arson investigator from a fire department within a city with a population of not less than 750,000 who is sworn and fully empowered by the city chief of police.

(*viii*) A security employee employed by the state pursuant to section 6c of 1935 PA 59, MCL 28.6c.

(*ix*) A motor carrier officer appointed pursuant to section 6d of 1935 PA 59, MCL 28.6d.

(*x*) A police officer or public safety officer of a community college, college, or university who is authorized by the governing board of that community college, college, or university to enforce state law and the rules and ordinances of that community college, college, or university.

(g) "Vehicle" means a conveyance of any kind, whether or not motorized, that is designed to transport people or property.

History: 2006, Act 311, Eff. Oct. 1, 2006.

DEADLY FORCE
Act 310 of 2006

AN ACT to exempt an individual who uses deadly force or force other than deadly force from criminal prosecution under certain circumstances; to establish certain procedures; and to prescribe the duties of certain public officials.

History: 2006, Act 310, Eff. Oct. 1, 2006.

The People of the State of Michigan enact:

780.961 Use of deadly force or force other than deadly force; establishing evidence that individual's actions not justified.

Sec. 1. (1) An individual who uses deadly force or force other than deadly force in compliance with section 2 of the self-defense act and who has not or is not engaged in the commission of a crime at the time he or she uses that deadly force or force other than deadly force commits no crime in using that deadly force or force other than deadly force.

(2) If a prosecutor believes that an individual used deadly force or force other than deadly force that is unjustified under section 2 of the self-defense act, the prosecutor may charge the individual with a crime arising from that use of deadly force or force other than deadly force and shall present evidence to the judge or magistrate at the time of warrant issuance, at the time of any preliminary examination, and at the time of any trial establishing that the individual's actions were not justified under section 2 of the self-defense act.

History: 2006, Act 310, Eff. Oct. 1, 2006.

SELF-DEFENSE ACT
Act 309 of 2006

AN ACT to clarify the rights and duties of self-defense and the defense of others.

History: 2006, Act 309, Eff. Oct. 1, 2006.

The People of the State of Michigan enact:

780.971 Short title.

Sec. 1. This act shall be known and may be cited as the "self-defense act".

History: 2006, Act 309, Eff. Oct. 1, 2006.

780.972 Use of deadly force by individual not engaged in commission of crime; conditions.

Sec. 2. (1) An individual who has not or is not engaged in the commission of a crime at the time he or she uses deadly force may use deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if either of the following applies:

(a) The individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent death of or imminent great bodily harm to himself or herself or to another individual.

(b) The individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent sexual assault of himself or herself or of another individual.

(2) An individual who has not or is not engaged in the commission of a crime at the time he or she uses force other than deadly force may use force other than deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if he or she honestly and reasonably believes that the use of that force is necessary to defend himself or herself or another individual from the imminent unlawful use of force by another individual.

History: 2006, Act 309, Eff. Oct. 1, 2006.

780.973 Duty to retreat; effect of act on common law.

Sec. 3. Except as provided in section 2, this act does not modify the common law of this state in existence on October 1, 2006 regarding the duty to retreat before using deadly force or force other than deadly force.

History: 2006, Act 309, Eff. Oct. 1, 2006.

780.974 Right to use deadly force; effect of act on common law.

Sec. 4. This act does not diminish an individual's right to use deadly force or force other than deadly force in self-defense or defense of another individual as provided by the common law of this state in existence on October 1, 2006.

History: 2006, Act 309, Eff. Oct. 1, 2006.

MICHIGAN INDIGENT DEFENSE COMMISSION ACT
Act 93 of 2013

AN ACT to create the Michigan indigent defense commission and to provide for its powers and duties; to provide indigent defendants in criminal cases with effective assistance of counsel; to provide standards for the appointment of legal counsel; to provide for and limit certain causes of action; and to provide for certain appropriations and grants.

History: 2013, Act 93, Imd. Eff. July 1, 2013.

The People of the State of Michigan enact:

780.981 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan indigent defense commission act".

History: 2013, Act 93, Imd. Eff. July 1, 2013.

780.983 Definitions.

Sec. 3. As used in this act:

(a) "Adult" means either of the following:

(*i*) An individual 18 years of age or older.

(*ii*) An individual less than 18 years of age at the time of the commission of a felony if any of the following conditions apply:

(A) During consideration of a petition filed under section 4 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.4, to waive jurisdiction to try the individual as an adult and upon granting a waiver of jurisdiction.

(B) The prosecuting attorney designates the case under section 2d(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d, as a case in which the juvenile is to be tried in the same manner as an adult.

(C) During consideration of a request by the prosecuting attorney under section 2d(2) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d, that the court designate the case as a case in which the juvenile is to be tried in the same manner as an adult.

(D) The prosecuting attorney authorizes the filing of a complaint and warrant for a specified juvenile violation under section 1f of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.1f.

(b) "Consumer Price Index" means the annual United States Consumer Price Index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

(c) "Department" means the department of licensing and regulatory affairs.

(d) "Effective assistance of counsel" or "effective representation" means legal representation that is compliant with standards established by the appellate courts of this state and the United States Supreme Court.

(e) "Indigent" means meeting 1 or more of the conditions described in section 11(3).

(f) "Indigent criminal defense services" means local legal defense services provided to a defendant and to which both of the following conditions apply:

(*i*) The defendant is being prosecuted or sentenced for a crime for which an individual may be imprisoned upon conviction, beginning with the defendant's initial appearance in court to answer to the criminal charge.

(*ii*) The defendant is determined to be indigent under section 11(3).

(g) Indigent criminal defense services do not include services authorized to be provided under the appellate defender act, 1978 PA 620, MCL 780.711 to 780.719.

(h) "Indigent criminal defense system" or "system" means either of the following:

(*i*) The local unit of government that funds a trial court.

(*ii*) If a trial court is funded by more than 1 local unit of government, those local units of government, collectively.

(i) "Local share" or "share" means an indigent criminal defense system's average annual expenditure for indigent criminal defense services in the 3 fiscal years immediately preceding the creation of the MIDC under this act, excluding money reimbursed to the system by individuals determined to be partially indigent. Beginning on November 1, 2018, if the Consumer Price Index has increased since November 1 of the prior state fiscal year, the local share must be adjusted by that number or by 3%, whichever is less.

(j) "MIDC" or "commission" means the Michigan indigent defense commission created under section 5.

(k) "Partially indigent" means a criminal defendant who is unable to afford the complete cost of legal representation, but is able to contribute a monetary amount toward his or her representation.

History: 2013, Act 93, Imd. Eff. July 1, 2013;—Am. 2016, Act 439, Imd. Eff. Jan. 4, 2017;—Am. 2018, Act 214, Eff. Dec. 23, 2018;—Am. 2019, Act 108, Eff. Oct. 1, 2021.

780.985 Michigan indigent defense commission; establishment; powers and duties; functions; delivery of services; minimum standards; final department action; judicial review; best practices; performance metrics; annual report.

Sec. 5. (1) The Michigan indigent defense commission is established within the department.

(2) The MIDC is an autonomous entity within the department. Except as otherwise provided by law, the MIDC shall exercise its statutory powers, duties, functions, and responsibilities independently of the department. The department shall provide support and coordinated services as requested by the MIDC including providing personnel, budgeting, procurement, and other administrative support to the MIDC sufficient to carry out its duties, powers, and responsibilities.

(3) The MIDC shall propose minimum standards for the local delivery of indigent criminal defense services providing effective assistance of counsel to adults throughout this state. These minimum standards must be designed to ensure the provision of indigent criminal defense services that meet constitutional requirements for effective assistance of counsel. However, these minimum standards must not infringe on the supreme court's authority over practice and procedure in the courts of this state as set forth in section 5 of article VI of the state constitution of 1963.

(4) The commission shall convene a public hearing before a proposed standard is recommended to the department. A minimum standard proposed under this subsection must be submitted to the department for approval or rejection. Opposition to a proposed minimum standard may be submitted to the department in a manner prescribed by the department. An indigent criminal defense system that objects to a recommended minimum standard on the ground that the recommended minimum standard would exceed the MIDC's statutory authority shall state specifically how the recommended minimum standard would exceed the MIDC's statutory authority. A proposed minimum standard is final when it is approved by the department. A minimum standard that is approved by the department is not subject to challenge through the appellate procedures in section 15. An approved minimum standard for the local delivery of indigent criminal defense services within an indigent criminal defense system is not a rule as that term is defined in section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207.

(5) Approval of a minimum standard proposed by the MIDC is considered a final department action subject to judicial review under section 28 of article VI of the state constitution of 1963 to determine whether the approved minimum standard is authorized by law. Jurisdiction and venue for judicial review are vested in the court of claims. An indigent criminal defense system may file a petition for review in the court of claims within 60 days after the date of mailing notice of the department's final decision on the recommended minimum standard. The filing of a petition for review does not stay enforcement of an approved minimum standard, but the department may grant, or the court of claims may order, a stay upon appropriate terms.

(6) The MIDC shall identify and encourage best practices for delivering the effective assistance of counsel to indigent defendants charged with crimes.

(7) The MIDC shall identify and implement a system of performance metrics to assess the provision of indigent defense services in this state relative to national standards and benchmarks. The MIDC shall provide an annual report to the governor, legislature, supreme court, and the state budget director on the performance metrics not later than December 15 of each year.

History: 2013, Act 93, Imd. Eff. July 1, 2013;—Am. 2016, Act 439, Imd. Eff. Jan. 4, 2017;—Am. 2018, Act 214, Eff. Dec. 23, 2018.

780.987 MIDC; membership; terms; appointment by governor; qualifications; staggered terms; vacancy; chairperson; compensation; removal; quorum; official action; confidential case information; exemption from freedom of information act.

Sec. 7. (1) The MIDC includes 18 voting members and the ex officio member described in subsection (2). The 18 voting members shall be appointed by the governor for terms of 4 years, except as provided in subsection (4). Subject to subsection (3), the governor shall appoint members under this subsection as follows:

(a) Two members submitted by the speaker of the house of representatives.

(b) Two members submitted by the senate majority leader.

(c) One member from a list of 3 names submitted by the supreme court chief justice.

(d) Three members from a list of 9 names submitted by the Criminal Defense Attorneys of Michigan.

(e) One member from a list of 3 names submitted by the Michigan Judges Association.

(f) One member from a list of 3 names submitted by the Michigan District Judges Association.

(g) One member from a list of 3 names submitted by the State Bar of Michigan.

(h) One member from a list of names submitted by bar associations whose primary mission or purpose is to advocate for minority interests. Each bar association described in this subdivision may submit 1 name.

(i) One member from a list of 3 names submitted by the Prosecuting Attorneys Association of Michigan who is a former county prosecuting attorney or former assistant county prosecuting attorney.

(j) One member selected to represent the general public.

(k) Two members representing the funding unit of a circuit court from a list of 6 names submitted by the Michigan Association of Counties.

(*l*) One member representing the funding unit of a district court from a list of 3 names submitted by the Michigan Townships Association or the Michigan Municipal League. The Michigan Townships Association and the Michigan Municipal League shall alternate in submitting a list as described under this subdivision. For the first appointment after the effective date of the amendatory act that amended this subdivision, the Michigan Municipal League shall submit a list as described under this subdivision for consideration for the appointment. For the second appointment after the effective date of the amendatory act that amended this subdivision, the Michigan Townships Association shall submit a list as described under this subdivision for consideration for the appointment.

(m) One member from a list of 3 names submitted by the state budget office.

(2) The supreme court chief justice or his or her designee shall serve as an ex officio member of the MIDC without vote.

(3) Individuals nominated for service on the MIDC as provided in subsection (1) must have significant experience in the defense or prosecution of criminal proceedings or have demonstrated a strong commitment to providing effective representation in indigent criminal defense services. Of the members appointed under this section, the governor shall appoint no fewer than 2 individuals who are not licensed attorneys. Any individual who receives compensation from this state or an indigent criminal defense system for providing prosecution of or representation to indigent adults in state courts is ineligible to serve as a member of the MIDC. Not more than 3 judges, whether they are former judges or sitting judges, shall serve on the MIDC at the same time. The governor may reject the names submitted under subsection (1) and request additional names.

(4) MIDC members shall hold office until their successors are appointed. The terms of the members must be staggered. Initially, 4 members must be appointed for a term of 4 years each, 4 members must be appointed for a term of 3 years each, 4 members must be appointed for a term of 2 years each, and 3 members must be appointed for a term of 1 year each.

(5) The governor shall fill a vacancy occurring in the membership of the MIDC in the same manner as the original appointment, except if the vacancy is for an appointment described in subsection (1)(d), the source of the nomination shall submit a list of 3 names for each vacancy. However, if the senate majority leader or the speaker of the house of representatives is the source of the nomination, 1 name must be submitted. If an MIDC member vacates the commission before the end of the member's term, the governor shall fill that vacancy for the unexpired term only.

(6) The governor shall appoint 1 of the original MIDC members to serve as chairperson of the MIDC for a term of 1 year. At the expiration of that year, or upon the vacancy in the membership of the member appointed chairperson, the MIDC shall annually elect a chairperson from its membership to serve a 1-year term. An MIDC member shall not serve as chairperson of the MIDC for more than 3 consecutive terms.

(7) MIDC members shall not receive compensation in that capacity but must be reimbursed for their reasonable actual and necessary expenses by the state treasurer.

(8) The governor may remove an MIDC member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(9) A majority of the MIDC voting members constitute a quorum for the transaction of business at a meeting of the MIDC. A majority of the MIDC voting members are required for official action of the commission.

(10) Confidential case information, including, but not limited to, client information and attorney work product, is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2013, Act 93, Imd. Eff. July 1, 2013;—Am. 2018, Act 214, Eff. Dec. 23, 2018;—Am. 2018, Act 443, Eff. Mar. 21, 2019.

780.989 MIDC; authority and duties; establishment of minimum standards, rules, and procedures; manual.

Sec. 9. (1) The MIDC has the following authority and duties:

(a) Developing and overseeing the implementation, enforcement, and modification of minimum standards, rules, and procedures to ensure that indigent criminal defense services providing effective assistance of

counsel are consistently delivered to all indigent adults in this state consistent with the safeguards of the United States constitution, the state constitution of 1963, and this act.

(b) Investigating, auditing, and reviewing the operation of indigent criminal defense services to assure compliance with the commission's minimum standards, rules, and procedures. However, an indigent criminal defense service that is in compliance with the commission's minimum standards, rules, and procedures must not be required to provide indigent criminal defense services in excess of those standards, rules, and procedures.

(c) Hiring an executive director and determining the appropriate number of staff needed to accomplish the purpose of the MIDC consistent with annual appropriations.

(d) Assigning the executive director the following duties:

(*i*) Establishing an organizational chart, preparing an annual budget, and hiring, disciplining, and firing staff.

(*ii*) Assisting the MIDC in developing, implementing, and regularly reviewing the MIDC's standards, rules, and procedures, including, but not limited to, recommending to the MIDC suggested changes to the criteria for an indigent adult's eligibility for receiving criminal trial defense services under this act.

(e) Establishing procedures for the receipt and resolution of complaints, and the implementation of recommendations from the courts, other participants in the criminal justice system, clients, and members of the public.

(f) Establishing procedures for the mandatory collection of data concerning the operation of the MIDC, each indigent criminal defense system, and the operation of indigent criminal defense services.

(g) Establishing rules and procedures for indigent criminal defense systems to apply to the MIDC for grants to bring the system's delivery of indigent criminal defense services into compliance with the minimum standards established by the MIDC.

(h) Establishing procedures for annually reporting to the governor, legislature, and supreme court. The report required under this subdivision shall include, but not be limited to, recommendations for improvements and further legislative action.

(2) Upon the appropriation of sufficient funds, the MIDC shall establish minimum standards to carry out the purpose of this act, and collect data from all indigent criminal defense systems. The MIDC shall propose goals for compliance with the minimum standards established under this act consistent with the metrics established under this section and appropriations by this state.

(3) In establishing and overseeing the minimum standards, rules, and procedures described in subsection (1), the MIDC shall emphasize the importance of indigent criminal defense services provided to juveniles under the age of 17 who are tried in the same manner as adults or who may be sentenced in the same manner as adults and to adults with mental impairments.

(4) The MIDC shall be mindful that defense attorneys who provide indigent criminal defense services are partners with the prosecution, law enforcement, and the judiciary in the criminal justice system.

(5) The MIDC shall establish procedures for the conduct of its affairs and promulgate policies necessary to carry out its powers and duties under this act.

(6) MIDC policies must be placed in an appropriate manual, made publicly available on a website, and made available to all attorneys and professionals providing indigent criminal defense services, the supreme court, the governor, the senate majority leader, the speaker of the house of representatives, the senate and house appropriations committees, and the senate and house fiscal agencies.

History: 2013, Act 93, Imd. Eff. July 1, 2013;—Am. 2016, Act 440, Imd. Eff. Jan. 4, 2017;—Am. 2018, Act 214, Eff. Dec. 23, 2018.

780.991 MIDC; establishment of minimum standards, rules, and procedures; principles; application for, and appointment of, indigent criminal defense services; requirements; partially indigent; objective standards.

Sec. 11. (1) The MIDC shall establish minimum standards, rules, and procedures to effectuate the following:

(a) The delivery of indigent criminal defense services must be independent of the judiciary but ensure that the judges of this state are permitted and encouraged to contribute information and advice concerning that delivery of indigent criminal defense services.

(b) If the caseload is sufficiently high, indigent criminal defense services may consist of both an indigent criminal defender office and the active participation of other members of the state bar.

(c) Trial courts shall assure that each criminal defendant is advised of his or her right to counsel. All adults, except those appearing with retained counsel or those who have made an informed waiver of counsel, must be screened for eligibility under this act, and counsel must be assigned as soon as an indigent adult is determined to be eligible for indigent criminal defense services.

(2) The MIDC shall implement minimum standards, rules, and procedures to guarantee the right of indigent defendants to the assistance of counsel as provided under amendment VI of the Constitution of the United States and section 20 of article I of the state constitution of 1963. In establishing minimum standards, rules, and procedures, the MIDC shall adhere to the following principles:

(a) Defense counsel is provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with defense counsel's client.

(b) Defense counsel's workload is controlled to permit effective representation. Economic disincentives or incentives that impair defense counsel's ability to provide effective representation must be avoided. The MIDC may develop workload controls to enhance defense counsel's ability to provide effective representation.

(c) Defense counsel's ability, training, and experience match the nature and complexity of the case to which he or she is appointed.

(d) The same defense counsel continuously represents and personally appears at every court appearance throughout the pendency of the case. However, indigent criminal defense systems may exempt ministerial, nonsubstantive tasks, and hearings from this prescription.

(e) Indigent criminal defense systems employ only defense counsel who have attended continuing legal education relevant to counsels' indigent defense clients.

(f) Indigent criminal defense systems systematically review defense counsel at the local level for efficiency and for effective representation according to MIDC standards.

(3) The following requirements apply to the application for, and appointment of, indigent criminal defense services under this act:

(a) A preliminary inquiry regarding, and the determination of, the indigency of any defendant, including a determination regarding whether a defendant is partially indigent, for purposes of this act must be made as determined by the indigent criminal defense system not later than at the defendant's first appearance in court. The determination may be reviewed by the indigent criminal defense system at any other stage of the proceedings. In determining whether a defendant is entitled to the appointment of counsel, the indigent criminal defense system shall consider whether the defendant is indigent and the extent of his or her ability to pay. Factors to be considered include, but are not limited to, income or funds from employment or any other source, including personal public assistance, to which the defendant is entitled, property owned by the defendant or in which he or she has an economic interest, outstanding obligations, the number and ages of the defendant's dependents, employment and job training history, and his or her level of education. A trial court may play a role in this determination as part of any indigent criminal defense system's compliance plan under the direction and supervision of the supreme court, consistent with section 4 of article VI of the state constitution of 1963. If an indigent criminal defense system determines that a defendant is partially indigent, the indigent criminal defense system shall determine the amount of money the defendant must contribute to his or her defense. An indigent criminal defense system's determination regarding the amount of money a partially indigent defendant must contribute to his or her defense is subject to judicial review. Nothing in this act prevents a court from making a determination of indigency for any purpose consistent with article VI of the state constitution of 1963.

(b) A defendant is considered to be indigent if he or she is unable, without substantial financial hardship to himself or herself or to his or her dependents, to obtain competent, qualified legal representation on his or her own. Substantial financial hardship is rebuttably presumed if the defendant receives personal public assistance, including under the food assistance program, temporary assistance for needy families, Medicaid, or disability insurance, resides in public housing, or earns an income less than 140% of the federal poverty guideline. A defendant is also rebuttably presumed to have a substantial financial hardship if he or she is currently serving a sentence in a correctional institution or is receiving residential treatment in a mental health or substance abuse facility.

(c) A defendant not falling below the presumptive thresholds described in subdivision (b) must be subjected to a more rigorous screening process to determine if his or her particular circumstances, including the seriousness of the charges being faced, his or her monthly expenses, and local private counsel rates would result in a substantial hardship if he or she were required to retain private counsel.

(d) A determination that a defendant is partially indigent may only be made if the indigent criminal defense system determines that a defendant is not fully indigent. An indigent criminal defense system that determines a defendant is not fully indigent but may be partially indigent must utilize the screening process under subdivision (c). The provisions of subdivision (e) apply to a partially indigent defendant.

(e) The MIDC shall promulgate objective standards for indigent criminal defense systems to determine whether a defendant is indigent or partially indigent. These standards must include availability of prompt judicial review, under the direction and supervision of the supreme court, if the indigent criminal defense

system is making the determination regarding a defendant's indigency or partial indigency.

(f) The MIDC shall promulgate objective standards for indigent criminal defense systems to determine the amount a partially indigent defendant must contribute to his or her defense. The standards must include availability of prompt judicial review, under the direction and supervision of the supreme court, if the indigent criminal defense system is making the determination regarding how much a partially indigent defendant must contribute to his or her defense.

(g) A defendant is responsible for applying for indigent defense counsel and for establishing his or her indigency and eligibility for appointed counsel under this act. Any oral or written statements made by the defendant in or for use in the criminal proceeding and material to the issue of his or her indigency must be made under oath or an equivalent affirmation.

(4) The MIDC shall establish standards for trainers and organizations conducting training that receive MIDC funds for training and education. The standards established under this subsection must require that the MIDC analyze the quality of the training, and must require that the effectiveness of the training be capable of being measured and validated.

(5) An indigent criminal defense system may include in its compliance plan a request that the MIDC serve as a clearinghouse for experts and investigators. If an indigent criminal defense system makes a request under this subsection, the MIDC may develop and operate a system for determining the need and availability for an expert or investigator in individual cases.

History: 2013, Act 93, Imd. Eff. July 1, 2013;—Am. 2016, Act 439, Imd. Eff. Jan. 4, 2017;—Am. 2018, Act 214, Eff. Dec. 23, 2018.

780.993 Investigation, audit, and review of indigent criminal defense services; cooperation and participation with MIDC; development of plan and cost analysis; award of grant; submission of plan; annual plan; approval or disapproval of plan and cost analysis by MIDC; report; maintenance of local share; necessity for excess funding; appropriation of additional funds; grants to local units of government; compliance with minimum standards; zero grant; funds received by MIDC as state funds; financial protocols; unexpended grant funds; reimbursement.

Sec. 13. (1) All indigent criminal defense systems and, at the direction of the supreme court, attorneys engaged in providing indigent criminal defense services shall cooperate and participate with the MIDC in the investigation, audit, and review of their indigent criminal defense services.

(2) An indigent criminal defense system may submit to the MIDC an estimate of the cost of developing the plan and cost analysis for implementing the plan under subsection (3) to the MIDC for approval. If approved, the MIDC shall award the indigent criminal defense system a grant to pay the approved costs for developing the plan and cost analysis under subsection (3).

(3) No later than 180 days after a standard is approved by the department, each indigent criminal defense system shall submit a plan to the MIDC for the provision of indigent criminal defense services in a manner as determined by the MIDC and shall submit an annual plan for the following state fiscal year on or before October 1 of each year. A plan submitted under this subsection must specifically address how the minimum standards established by the MIDC under this act will be met and must include a cost analysis for meeting those minimum standards. The standards to be addressed in the annual plan are those approved not less than 180 days before the annual plan submission date. The cost analysis must include a statement of the funds in excess of the local share, if any, necessary to allow its system to comply with the MIDC's minimum standards.

(4) The MIDC shall approve or disapprove all or any portion of a plan or cost analysis, or both a plan and cost analysis, submitted under subsection (3), and shall do so within 90 calendar days of the submission of the plan and cost analysis. If the MIDC disapproves any part of the plan, the cost analysis, or both the plan and the cost analysis, the indigent criminal defense system shall consult with the MIDC and, for any disapproved portion, submit a new plan, a new cost analysis, or both within 60 calendar days of the mailing date of the official notification of the MIDC's disapproval. If after 3 submissions a compromise is not reached, the dispute must be resolved as provided in section 15. All approved provisions of an indigent criminal defense system's plan and cost analysis must not be delayed by any disapproved portion and must proceed as provided in this act. The MIDC shall not approve a cost analysis or portion of a cost analysis unless it is reasonably and directly related to an indigent defense function.

(5) The MIDC shall submit a report to the governor, the senate majority leader, the speaker of the house of representatives, and the appropriations committees of the senate and house of representatives requesting the appropriation of funds necessary to implement compliance plans after all the systems compliance plans are approved by the MIDC. For standards approved after January 1, 2018, the MIDC shall include a cost analysis

for each minimum standard in the report and shall also provide a cost analysis for each minimum standard approved on or before January 1, 2018, if a cost analysis for each minimum standard approved was not provided and shall do so not later than October 31, 2018. The amount requested under this subsection must be equal to the total amount required to achieve full compliance as agreed upon by the MIDC and the indigent criminal defense systems under the approval process provided in subsection (4). The information used to create this report must be made available to the governor, the senate majority leader, the speaker of the house of representatives, and the appropriations committees of the senate and house of representatives.

(6) The MIDC shall submit a report to the governor, the senate majority leader, the speaker of the house of representatives, and the appropriations committees of the senate and house of representatives not later than October 31, 2021 that includes a recommendation regarding the appropriate level of local share, expressed in both total dollars and as a percentage of the total cost of compliance for each indigent criminal defense system.

(7) Except as provided in subsection (9), an indigent criminal defense system shall maintain not less than its local share. If the MIDC determines that funding in excess of the indigent criminal defense system's share is necessary in order to bring its system into compliance with the minimum standards established by the MIDC, that excess funding must be paid by this state. The legislature shall appropriate to the MIDC the additional funds necessary for a system to meet and maintain those minimum standards, which must be provided to indigent criminal defense systems through grants as described in subsection (8). The legislature may appropriate funds that apply to less than all of the minimum standards and may provide less than the full amount of the funds requested under subsection (5). Notwithstanding this subsection, it is the intent of the legislature to fund all of the minimum standards contained in the report under subsection (5) within 3 years of the date on which the minimum standards were adopted.

(8) An indigent criminal defense system must not be required to provide funds in excess of its local share. The MIDC shall provide grants to indigent criminal defense systems to assist in bringing the systems into compliance with minimum standards established by the MIDC.

(9) An indigent criminal defense system is not required to expend its local share if the minimum standards established by the MIDC may be met for less than that share, but the local share of a system that expends less than its local share under these circumstances is not reduced by the lower expenditure.

(10) This state shall appropriate funds to the MIDC for grants to the local units of government for the reasonable costs associated with data required to be collected under this act that is over and above the local unit of government's data costs for other purposes.

(11) Within 180 days after receiving funds from the MIDC under subsection (8), an indigent criminal defense system shall comply with the terms of the grant in bringing its system into compliance with the minimum standards established by the MIDC for effective assistance of counsel. The terms of a grant may allow an indigent criminal defense system to exceed 180 days for compliance with a specific item needed to meet minimum standards if necessity is demonstrated in the indigent criminal defense system's compliance plan. The MIDC has the authority to allow an indigent criminal defense system to exceed 180 days for implementation of items if an unforeseeable condition prohibits timely compliance.

(12) If an indigent criminal defense system is awarded no funds for implementation of its plan under this act, the MIDC shall nevertheless issue to the system a zero grant reflecting that it will receive no grant funds.

(13) The MIDC may apply for and obtain grants from any source to carry out the purposes of this act. All funds received by MIDC, from any source, are state funds and must be appropriated as provided by law.

(14) The MIDC shall ensure proper financial protocols in administering and overseeing funds utilized by indigent criminal defense systems, including, but not limited to, all of the following:

(a) Requiring documentation of expenditures.

(b) Requiring each indigent criminal defense system to hold all grant funds in a fund that is separate from other funds held by the indigent criminal defense system.

(c) Requiring each indigent criminal defense system to comply with the standards promulgated by the governmental accounting standards board.

(15) If an indigent criminal defense system does not fully expend a grant toward its costs of compliance, its grant in the second succeeding fiscal year must be reduced by the amount equal to the unexpended funds. Identified unexpended grant funds must be reported by indigent criminal defense systems on or before October 31 of each year. Funds subject to extension under subsection (11) must be reported but not included in the reductions described in this subsection. Any grant money that is determined to have been used for a purpose outside of the compliance plan must be repaid to the MIDC, or if not repaid, must be deducted from future grant amounts.

(16) If an indigent criminal defense system expends funds in excess of its local share and the approved MIDC grant to meet unexpected needs in the provision of indigent criminal defense services, the MIDC shall

recommend the inclusion of the funds in a subsequent year's grant if all expenditures were reasonably and directly related to indigent criminal defense functions.

(17) The court shall collect contribution or reimbursement from individuals determined to be partially indigent under applicable court rules and statutes. Reimbursement under this subsection is subject to section 22 of chapter XV of the code of criminal procedure, 1927 PA 175, MCL 775.22. The court shall remit 100% of the funds it collects under this subsection to the indigent criminal defense system in which the court is sitting. Twenty percent of the funds received under this subsection by an indigent criminal defense system must be remitted to the department in a manner prescribed by the department and reported to the MIDC by October 31 of each year. The funds received by the department under this subsection must be expended by the MIDC in support of indigent criminal defense systems in this state. The remaining 80% of the funds collected under this subsection may be retained by the indigent criminal defense system for purposes of reimbursing the costs of collecting the funds under this subsection and funding indigent defense in the subsequent fiscal year. The funds collected under this subsection must not alter the calculation of the local share made pursuant to section 3(i).

History: 2013, Act 93, Imd. Eff. July 1, 2013;—Am. 2016, Act 441, Imd. Eff. Jan. 4, 2017;—Am. 2018, Act 214, Eff. Dec. 23, 2018.

780.995 Dispute between MIDC and indigent criminal defense system.

Sec. 15. (1) Except as provided in section 5, if a dispute arises between the MIDC and an indigent criminal defense system concerning the requirements of this act, including a dispute concerning the approval of an indigent criminal defense system's plan, cost analysis, or compliance with section 13 or 17, the parties shall attempt to resolve the dispute by mediation. The state court administrator, as authorized by the supreme court, shall appoint a mediator agreed to by the parties within 30 calendar days of the mailing date of the official notification of the third disapproval by the MIDC under section 13(4) to mediate the dispute and shall facilitate the mediation process. The MIDC shall immediately send the state court administrative office a copy of the official notice of that third disapproval. If the parties do not agree on the selection of the mediator, the state court administrator, as authorized by the supreme court, shall appoint a mediator of his or her choosing. Mediation must commence within 30 calendar days after the mediator is appointed and terminate within 60 calendar days of its commencement. Mediation costs associated with mediation of the dispute must be paid equally by the parties.

(2) If the parties do not come to a resolution of the dispute during mediation under subsection (1), all of the following apply:

(a) The mediator may submit his or her recommendation of how the dispute should be resolved to the MIDC within 30 calendar days of the conclusion of mediation for the MIDC's consideration.

(b) The MIDC shall consider the recommendation of the mediator, if any, and shall approve a final plan or the cost analysis, or both, in the manner the MIDC considers appropriate within 30 calendar days, and the indigent criminal defense system shall implement the plan as approved by the MIDC.

(c) The indigent criminal defense system that is aggrieved by the final plan, cost analysis, or both, may bring an action seeking equitable relief as described in subsection (3).

(3) The MIDC, or an indigent criminal defense system may bring an action seeking equitable relief in the circuit court only as follows:

(a) Within 60 days after the MIDC's issuance of an approved plan and cost analysis under subsection (2)(b).

(b) Within 60 days after the system receives grant funds under section 13(8), if the plan, cost analysis, or both, required a grant award for implementation of the plan.

(c) Within 30 days of the MIDC's determination that the indigent criminal defense system has breached its duty to comply with an approved plan.

(d) The action must be brought in the judicial circuit where the indigent criminal defense service is located. The state court administrator, as authorized by the supreme court, shall assign an active or retired judge from a judicial circuit other than the judicial circuit where the action was filed to hear the case. Costs associated with the assignment of the judge must be paid equally by the parties.

(e) The action must not challenge the validity, legality, or appropriateness of the minimum standards approved by the department.

(4) If the dispute involves the indigent criminal defense system's plan, cost analysis, or both, the court may approve, reject, or modify the submitted plan, cost analysis, or the terms of a grant awarded under section 13(8) other than the amount of the grant, determine whether section 13 has been complied with, and issue any orders necessary to obtain compliance with this act. However, the system must not be required to expend more than its local share in complying with this act.

(5) If a party refuses or fails to comply with a previous order of the court, the court may enforce the

previous order through the court's enforcement remedies, including, but not limited to, its contempt powers, and may order that the state undertake the provision of indigent criminal defense services in lieu of the indigent criminal defense system.

(6) If the court determines that an indigent criminal defense system has breached its duty under section 17(1), the court may order the MIDC to provide indigent criminal defense on behalf of that system.

(7) If the court orders the MIDC to provide indigent criminal defense services on behalf of an indigent criminal defense system, the court shall order the system to pay the following amount of the state's costs that the MIDC determines are necessary in order to bring the indigent criminal defense system into compliance with the minimum standards established by the MIDC:

(a) In the first year, 20% of the state's costs.

(b) In the second year, 40% of the state's costs.

(c) In the third year, 60% of the state's costs.

(d) In the fourth year, 80% of the state's costs.

(e) In the fifth year, and any subsequent year, not more than the dollar amount that was calculated under subdivision (d).

(8) An indigent criminal defense system may resume providing indigent criminal defense services at any time as provided under section 13. When a system resumes providing indigent criminal defense services, it is no longer required to pay an assessment under subsection (7) but must be required to pay no less than its share.

History: 2013, Act 93, Imd. Eff. July 1, 2013;—Am. 2016, Act 442, Imd. Eff. Jan. 4, 2017;—Am. 2018, Act 214, Eff. Dec. 23, 2018.

780.997 Duty of compliance with approved plan.

Sec. 17. (1) Except as provided in subsection (2), every local unit of government that is part of an indigent criminal defense system shall comply with an approved plan under this act.

(2) A system's duty of compliance with 1 or more standards within the plan under subsection (1) is contingent upon receipt of a grant in the amount sufficient to cover that particular standard or standards contained in the plan and cost analysis approved by the MIDC.

(3) The MIDC may proceed under section 15 if an indigent criminal defense system breaches its duty of compliance under subsection (1).

History: 2013, Act 93, Imd. Eff. July 1, 2013;—Am. 2016, Act 443, Imd. Eff. Jan. 4, 2017;—Am. 2018, Act 214, Eff. Dec. 23, 2018.

780.999 Annual report, budget, and listing of expenditures; availability on website.

Sec. 19. The MIDC shall publish and make available to the public on a website its annual report, its budget, and a listing of all expenditures. Publication and availability of the listing of expenditures shall be on a quarterly basis, except for the annual report and salary information, which may be published and made available on an annual basis. As used in this section, "expenditures" means all payments or disbursements of MIDC funds, received from any source, made by the MIDC.

History: 2013, Act 93, Imd. Eff. July 1, 2013.

780.1001 Applicability of freedom of information act and open meetings act.

Sec. 21. Both of the following apply to the MIDC:

(a) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except as provided in section 7(10).

(b) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

History: 2013, Act 93, Imd. Eff. July 1, 2013.

780.1002 Michigan indigent defense fund; creation; administration; purpose.

Sec. 22. (1) The Michigan indigent defense fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including private gifts, bequests, and donations. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall lapse to the general fund.

(4) The commission shall be the administrator of the fund for auditing purposes.

(5) The commission shall expend money from the fund to carry out its responsibilities under this act.

History: Add. 2018, Act 214, Eff. Dec. 23, 2018.

780.1003 Effect of United States or state supreme court cases; failure to comply with statutory duties; grounds for reversal or modification of conviction.

Sec. 23. (1) Nothing in this act shall be construed to overrule, expand, or extend, either directly or by analogy, any decisions reached by the United States supreme court or the supreme court of this state regarding the effective assistance of counsel.

(2) Nothing in this act shall be construed to override section 29 or 30 of article IX of the state constitution of 1963.

(3) Except as otherwise provided in this act, the failure of an indigent criminal defense system to comply with statutory duties imposed under this act does not create a cause of action against the government or a system.

(4) Statutory duties imposed that create a higher standard than that imposed by the United States constitution or the state constitution of 1963 do not create a cause of action against a local unit of government, an indigent criminal defense system, or this state.

(5) Violations of MIDC rules that do not constitute ineffective assistance of counsel under the United States constitution or the state constitution of 1963 do not constitute grounds for a conviction to be reversed or a judgment to be modified for ineffective assistance of counsel.

History: 2013, Act 93, Imd. Eff. July 1, 2013.