

HOUSE BILL No. 6172

June 5, 2002, Introduced by Reps. Murphy, Lemmons, Rivet, Zelenko, Lockwood, Williams and Lipsey and referred to the Committee on Criminal Justice.

A bill to amend 1985 PA 87, entitled
"Crime victim's rights act,"
by amending sections 2, 15, 31, 43, 61, and 75 (MCL 780.752,
780.765, 780.781, 780.793, 780.811, and 780.825), as amended by
2000 PA 503.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

1 (c) "Defendant" means a person charged with or convicted of
2 committing a crime against a victim.

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

7 (e) "Juvenile" means a person within the jurisdiction of the
8 circuit court under section 606 of the revised judicature act of
9 1961, 1961 PA 236, MCL 600.606.

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

16 (G) "NEIGHBORHOOD ASSOCIATION" MEANS EITHER OF THE
17 FOLLOWING:

18 (i) A NEIGHBORHOOD ORGANIZATION AS THAT TERM IS DEFINED IN
19 SECTION 5 OF THE NEIGHBORHOOD ASSISTANCE AND PARTICIPATION ACT,
20 1980 PA 56, MCL 125.805.

21 (ii) A NONGOVERNMENTAL ASSOCIATION OR ORGANIZATION THAT
22 SERVES AN AREA WITH GEOGRAPHICALLY DEFINABLE BOUNDARIES AND THAT
23 HAS AS ITS PRIMARY PURPOSE THE REDUCTION OF CRIME IN THAT AREA.

24 (H) ~~(g)~~ "Person" means an individual, organization, part-
25 nership, corporation, or governmental entity.

26 (I) ~~(h)~~ "Prisoner" means a person who has been convicted
27 and sentenced to imprisonment or placement in a juvenile facility

1 for having committed a crime or an act that would be a crime if
2 committed by an adult against a victim.

3 (J) ~~(i)~~ "Prosecuting attorney" means the prosecuting
4 attorney for a county, an assistant prosecuting attorney for a
5 county, the attorney general, the deputy attorney general, an
6 assistant attorney general, or a special prosecuting attorney.

7 (K) ~~(j)~~ "Victim" means any of the following:

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

11 (ii) The following individuals other than the defendant if
12 the victim is deceased:

13 (A) The spouse of the deceased victim.

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

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

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

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

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

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

1 (iv) A parent, guardian, or custodian of a victim who is
2 mentally or emotionally unable to participate in the legal pro-
3 cess if he or she is neither the defendant nor incarcerated.

4 (2) If a victim as defined in subsection ~~-(1)(j)(i)~~
5 (1)(K)(i) is physically or emotionally unable to exercise the
6 privileges and rights under this article, the victim may desig-
7 nate his or her spouse, child 18 years of age or older, parent,
8 sibling, grandparent, or any other person 18 years of age or
9 older who is neither the defendant nor incarcerated to act in his
10 or her place while the physical or emotional disability
11 continues. The victim shall provide the prosecuting attorney
12 with the name of the person who is to act in his or her place.
13 During the physical or emotional disability, notices to be pro-
14 vided under this article to the victim shall continue to be sent
15 only to the victim.

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

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

24 Sec. 15. (1) The victim has the right to appear and make an
25 oral impact statement at the sentencing of the defendant. If the
26 victim is physically or emotionally unable to make the oral
27 impact statement, the victim may designate any other person 18

1 years of age or older who is neither the defendant nor
2 incarcerated to make the statement on his or her behalf. The
3 other person need not be an attorney.

4 (2) A NEIGHBORHOOD ASSOCIATION WHOSE BOUNDARIES INCLUDE THE
5 VICTIM'S RESIDENCE HAS THE RIGHT TO APPEAR AND MAKE AN ORAL
6 IMPACT STATEMENT AT THE SENTENCING OF THE DEFENDANT. ANY MEMBER
7 OF THE NEIGHBORHOOD ASSOCIATION MAY MAKE THE ORAL IMPACT STATE-
8 MENT ON BEHALF OF THE NEIGHBORHOOD ASSOCIATION.

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

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

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

15 (c) "Designated case" means a case designated as a case in
16 which the juvenile is to be tried in the same manner as an adult
17 under section 2d of chapter XIIIA of the probate code of 1939,
18 1939 PA 288, MCL 712A.2d.

19 (d) "Juvenile" means an individual alleged or found to be
20 within the court's jurisdiction under section 2(a)(1) of chapter
21 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for an
22 offense, including, but not limited to, an individual in a desig-
23 nated case.

24 (e) "Juvenile facility" means a county facility, an institu-
25 tion operated as an agency of the county or the court, or an
26 institution or agency described in the youth rehabilitation

1 services act, 1974 PA 150, MCL 803.301 to 803.309, to which a
2 juvenile has been committed or in which a juvenile is detained.

3 (F) "NEIGHBORHOOD ASSOCIATION" MEANS EITHER OF THE
4 FOLLOWING:

5 (i) A NEIGHBORHOOD ORGANIZATION AS THAT TERM IS DEFINED IN
6 SECTION 5 OF THE NEIGHBORHOOD ASSISTANCE AND PARTICIPATION ACT,
7 1980 PA 56, MCL 125.805.

8 (ii) A NONGOVERNMENTAL ASSOCIATION OR ORGANIZATION THAT
9 SERVES AN AREA WITH GEOGRAPHICALLY DEFINABLE BOUNDARIES AND THAT
10 HAS AS ITS PRIMARY PURPOSE THE REDUCTION OF CRIME IN THAT AREA.

11 (G) ~~-(f)-~~ "Offense" means 1 or more of the following:

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

16 (ii) A violation of section 81 (assault and battery, includ-
17 ing domestic violence), 81a (assault; infliction of serious
18 injury, including aggravated domestic violence), 115 (breaking
19 and entering or illegal entry), 136b(5) (child abuse in the
20 ~~fourth~~ THIRD degree), 145a (enticing a child for immoral
21 purposes), 234 (discharge of a firearm intentionally aimed at a
22 person), 235 (discharge of an intentionally aimed firearm result-
23 ing in injury), 335a (indecent exposure), or 411h (stalking) of
24 the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a,
25 750.115, 750.136b, 750.145a, 750.234, 750.235, 750.335a, and
26 750.411h.

1 (iii) A violation of section 617a (leaving the scene of a
2 personal injury accident) of the Michigan vehicle code, 1949
3 PA 300, MCL 257.617a, or a violation of section 625 (operating a
4 vehicle while under the influence of or impaired by intoxicating
5 liquor or a controlled substance, or with unlawful blood alcohol
6 content) of that act, MCL 257.625, if the violation involves an
7 accident resulting in damage to another individual's property or
8 physical injury or death to another individual.

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

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

21 (vi) A violation of a local ordinance substantially corre-
22 sponding to a law enumerated in subparagraphs (i) to (v).

23 (vii) A violation described in subparagraphs (i) to (vi)
24 that is subsequently reduced to a violation not included in sub-
25 paragraphs (i) to (vi).

26 (H) ~~-(g)-~~ "Person" means an individual, organization,
27 partnership, corporation, or governmental entity.

1 (I) ~~(h)~~ "Prosecuting attorney" means the prosecuting
2 attorney for a county, an assistant prosecuting attorney for a
3 county, the attorney general, the deputy attorney general, an
4 assistant attorney general, a special prosecuting attorney, or in
5 connection with the prosecution of an ordinance violation, an
6 attorney for the political subdivision that enacted the ordinance
7 upon which the violation is based.

8 (J) ~~(i)~~ "Victim" means any of the following:

9 (i) A person who suffers direct or threatened physical,
10 financial, or emotional harm as a result of the commission of an
11 offense, except as provided in subparagraph (ii), (iii), or
12 (iv).

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

15 (A) The spouse of the deceased victim.

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

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

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

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

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

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

4 (iv) A parent, guardian, or custodian of a victim who is
5 mentally or emotionally unable to participate in the legal pro-
6 cess if he or she is neither the defendant nor incarcerated.

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

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

23 Sec. 43. (1) The victim has the right to appear and make an
24 oral impact statement at the juvenile's disposition or
25 sentencing. If the victim is physically or emotionally unable to
26 make the oral impact statement, the victim may designate any
27 other person 18 years of age or older who is neither the

1 defendant nor incarcerated to make the statement on his or her
2 behalf. The other person need not be an attorney.

3 (2) Upon request, the victim shall be notified by the prose-
4 cuting attorney, or, pursuant to an agreement under section 48a,
5 the court of the disposition of the juvenile's offense not more
6 than 30 days after the disposition is made.

7 (3) A NEIGHBORHOOD ASSOCIATION WHOSE BOUNDARIES INCLUDE THE
8 VICTIM'S RESIDENCE HAS THE RIGHT TO APPEAR AND MAKE AN ORAL
9 IMPACT STATEMENT AT THE DISPOSITION OF THE JUVENILE. ANY MEMBER
10 OF THE NEIGHBORHOOD ASSOCIATION MAY MAKE THE ORAL IMPACT STATE-
11 MENT ON BEHALF OF THE NEIGHBORHOOD ASSOCIATION.

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

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

15 (i) A violation of section 81 of the Michigan penal code,
16 1931 PA 328, MCL 750.81, assault and battery, including domestic
17 violence.

18 (ii) A violation of section 81a of the Michigan penal code,
19 1931 PA 328, MCL 750.81a, assault; infliction of serious injury,
20 including aggravated domestic violence.

21 (iii) A violation of section 115 of the Michigan penal code,
22 1931 PA 328, MCL 750.115, breaking and entering or illegal
23 entry.

24 (iv) A violation of section 136b(6) of the Michigan penal
25 code, 1931 PA 328, MCL 750.136b, child abuse in the fourth
26 degree.

1 (v) A violation of section 145a of the Michigan penal code,
2 1931 PA 328, MCL 750.145a, enticing a child for immoral
3 purposes.

4 (vi) A violation of section 234 of the Michigan penal code,
5 1931 PA 328, MCL 750.234, discharge of a firearm intentionally
6 aimed at a person.

7 (vii) A violation of section 235 of the Michigan penal code,
8 1931 PA 328, MCL 750.235, discharge of an intentionally aimed
9 firearm resulting in injury.

10 (viii) A violation of section 335a of the Michigan penal
11 code, 1931 PA 328, MCL 750.335a, indecent exposure.

12 (ix) A violation of section 617a of the Michigan vehicle
13 code, 1949 PA 300, MCL 257.617a, leaving the scene of a personal
14 injury accident.

15 (x) A violation of section 625 of the Michigan vehicle code,
16 1949 PA 300, MCL 257.625, operating a vehicle while under the
17 influence of or impaired by intoxicating liquor or a controlled
18 substance, or with an unlawful blood alcohol content, if the vio-
19 lation involves an accident resulting in damage to another
20 individual's property or physical injury or death to another
21 individual.

22 (xi) Selling or furnishing alcoholic liquor to an individual
23 less than 21 years of age in violation of section 701 of the
24 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701,
25 if the violation results in physical injury or death to any
26 individual.

1 (xii) A violation of section 411h of the Michigan penal
2 code, 1931 PA 328, MCL 750.411h, stalking.

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

10 (xiv) A violation of a local ordinance substantially corre-
11 sponding to a violation enumerated in subparagraphs (i) to
12 (xiii).

13 (xv) A violation charged as a crime or serious misdemeanor
14 enumerated in subparagraphs (i) to (xiv) but subsequently reduced
15 to or pleaded to as a misdemeanor. As used in this subparagraph,
16 "crime" means that term as defined in section 2.

17 (b) "Defendant" means a person charged with or convicted of
18 having committed a serious misdemeanor against a victim.

19 (c) "Final disposition" means the ultimate termination of
20 the criminal prosecution of a defendant including, but not
21 limited to, dismissal, acquittal, or imposition of a sentence by
22 the court.

23 (D) "NEIGHBORHOOD ASSOCIATION" MEANS EITHER OF THE
24 FOLLOWING:

25 (i) A NEIGHBORHOOD ORGANIZATION AS THAT TERM IS DEFINED IN
26 SECTION 5 OF THE NEIGHBORHOOD ASSISTANCE AND PARTICIPATION ACT,
27 1980 PA 56, MCL 125.805.

1 (ii) A NONGOVERNMENTAL ASSOCIATION OR ORGANIZATION THAT
2 SERVES AN AREA WITH GEOGRAPHICALLY DEFINABLE BOUNDARIES AND THAT
3 HAS AS ITS PRIMARY PURPOSE THE REDUCTION OF CRIME IN THAT AREA.

4 (E) ~~-(d)-~~ "Person" means an individual, organization, part-
5 nership, corporation, or governmental entity.

6 (F) ~~-(e)-~~ "Prisoner" means a person who has been convicted
7 and sentenced to imprisonment for having committed a serious mis-
8 demeanor against a victim.

9 (G) ~~-(f)-~~ "Prosecuting attorney" means the prosecuting
10 attorney for a county, an assistant prosecuting attorney for a
11 county, the attorney general, the deputy attorney general, an
12 assistant attorney general, a special prosecuting attorney, or,
13 in connection with the prosecution of an ordinance violation, an
14 attorney for the political subdivision that enacted the ordinance
15 upon which the violation is based.

16 (H) ~~-(g)-~~ "Victim" means any of the following:

17 (i) An individual who suffers direct or threatened physical,
18 financial, or emotional harm as a result of the commission of a
19 serious misdemeanor, except as provided in subparagraph (ii),
20 (iii), or (iv).

21 (ii) The following individuals other than the defendant if
22 the victim is deceased:

23 (A) The spouse of the deceased victim.

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

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

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

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

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

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

11 (iv) A parent, guardian, or custodian of a victim who is so
12 mentally incapacitated that he or she cannot meaningfully under-
13 stand or participate in the legal process if he or she is not the
14 defendant and is not incarcerated.

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

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

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

11 Sec. 75. (1) If no presentence report is prepared, the
12 court shall notify the prosecuting attorney of the date and time
13 of sentencing at least 10 days prior to the sentencing. The
14 victim has the right to submit a written impact statement and has
15 the right to appear and make an oral impact statement at the sen-
16 tencing of the defendant. If the victim is physically or emo-
17 tionally unable to make the oral impact statement, the victim may
18 designate any other person 18 years of age or older who is nei-
19 ther the defendant nor incarcerated to make the statement on his
20 or her behalf. The other person need not be an attorney. The
21 court shall consider the victim's statement in imposing sentence
22 on the defendant.

23 (2) A NEIGHBORHOOD ASSOCIATION WHOSE BOUNDARIES INCLUDE THE
24 VICTIM'S RESIDENCE HAS THE RIGHT TO APPEAR AND MAKE AN ORAL
25 IMPACT STATEMENT AT THE SENTENCING OF THE DEFENDANT. ANY MEMBER
26 OF THE NEIGHBORHOOD ASSOCIATION MAY MAKE THE ORAL IMPACT
27 STATEMENT ON BEHALF OF THE NEIGHBORHOOD ASSOCIATION.