



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 628 (Substitute S-1 as passed by the Senate)
Senate Bills 749 and 750 (as passed by the Senate)
Sponsor: Senator Tonya Schuitmaker
Committee: Judiciary

Date Completed: 4-21-14

RATIONALE

The Crime Victim's Rights Act establishes certain rights of victims of various crimes, including the right to make an impact statement that will be included in the presentence investigation report and the right to make an oral impact statement at sentencing. If a victim is less than 18 years of age, the victim's parent, guardian, or custodian is included in the Act's definition of "victim". There appears to be some uncertainty, however, as to whether a parent, guardian, or custodian may exercise the rights of a victim who was under 18 at the time of the crime but is 18 or older at the time of sentencing. It has been suggested that the definition of "victim" should include a parent, guardian, or custodian in that situation, for the purpose of making a victim's impact statement.

CONTENT

Senate Bills 628 (S-1), 749, and 750 would amend the definition of "victim" in Articles 1, 2, and 3 of the Crime Victim's Rights Act, respectively, to include, for the purpose of making an impact statement only, a parent, guardian, or custodian of a victim who was less than 18 years old at the time the crime was committed, if the parent, guardian, or custodian so chose.

Article 1 provides for rights of a victim of a crime that either is designated by law as a felony or is punishable by imprisonment for more than one year. Article 2 provides for rights of a victim of certain juvenile offenses. These include a violation of a penal law for which a juvenile offender, if convicted as an adult, may be punished by imprisonment for more than one year or an offense expressly designated by law as a felony, and certain other violations of law listed in Article 2. Article 3 provides for rights of a victim of a "serious misdemeanor". That term includes specific violations of law listed in Article 3.

Under all three articles, the rights of a victim include the right to make an impact statement that will be included in the presentence investigation report, and the right to make an oral impact statement at sentencing.

As applicable, the articles define "victim" as an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime, an offense committed by a juvenile, or a serious misdemeanor, except as provided for other individuals. These include 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. For the purpose of making an impact statement only, the bills also would include a parent, guardian, or custodian of a victim who was less than 18 years old at the time the crime was committed and was not the defendant or incarcerated, if the parent, guardian, or custodian so chose.

Senate Bills 749 and 750 include an effective date of July 1, 2014.

MCL 780.752 (S.B. 628)
780.781 (S.B. 749)
780.811 (S.B. 750)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Act recognizes the immaturity and vulnerability of a crime victim who is a minor, by including his or her parent, guardian, or custodian in the definition of "victim". This allows that adult to exercise the rights of a victim, including writing and/or orally delivering a victim's impact statement before a convicted defendant is sentenced. In at least one instance, in Ogemaw County, a court denied a parent the right to make a victim's impact statement on behalf of a victim who was under 18 at the time of the crime but who had turned 18 before the date of sentencing. When a minor is victimized, his or her parent, guardian, or custodian should be allowed to make an impact statement on behalf of the victim, even if the trial and sentencing occur after he or she has reached the age of majority. The bills would ensure that such parents would be granted that right under the Crime Victim's Rights Act.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: John Maxwell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.