

HOUSE BILL No. 5263

January 29, 2014, Introduced by Reps. O'Brien, Schmidt and Kesto and referred to the Committee on Judiciary.

A bill to amend 1985 PA 87, entitled "William Van Regenmorter crime victim's rights act," by amending section 61 (MCL 780.811), as amended by 2009 PA 28.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

7 (ii) A violation of section 81a of the Michigan penal code,
8 1931 PA 328, MCL 750.81a, assault; infliction of serious injury,
9 including aggravated domestic violence.

10 (iii) A violation of section 115 of the Michigan penal code,

1 1931 PA 328, MCL 750.115, breaking and entering or illegal entry.

2 (iv) A violation of section ~~136b(6)~~**136B(7)** of the Michigan
3 penal code, 1931 PA 328, MCL 750.136b, child abuse in the fourth
4 degree.

5 (v) A violation of section 145 of the Michigan penal code,
6 1931 PA 328, MCL 750.145, contributing to the neglect or
7 delinquency of a minor.

8 (vi) A misdemeanor violation of section 145d of the Michigan
9 penal code, 1931 PA 328, MCL 750.145d, using the internet or a
10 computer to make a prohibited communication.

11 (vii) A violation of section 233 of the Michigan penal code,
12 ~~1931 PA 238~~,**1931 PA 328**, MCL 750.233, intentionally aiming a
13 firearm without malice.

14 (viii) A violation of section 234 of the Michigan penal code,
15 1931 PA 328, MCL 750.234, discharge of a firearm intentionally
16 aimed at a person.

17 (ix) A violation of section 235 of the Michigan penal code,
18 1931 PA 328, MCL 750.235, discharge of an intentionally aimed
19 firearm resulting in injury.

20 (x) A violation of section 335a of the Michigan penal code,
21 1931 PA 328, MCL 750.335a, indecent exposure.

22 (xi) A violation of section 411h of the Michigan penal code,
23 1931 PA 328, MCL 750.411h, stalking.

24 (xii) A violation of section 601b(2) of the Michigan vehicle
25 code, 1949 PA 300, MCL 257.601b, injuring a worker in a work zone.

26 (xiii) A violation of section 617a of the Michigan vehicle code,
27 1949 PA 300, MCL 257.617a, leaving the scene of a personal injury

1 accident.

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

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

14 (xvi) A violation of section 80176(1) or (3) of the natural
15 resources and environmental protection act, 1994 PA 451, MCL
16 324.80176, operating a vessel while under the influence of or
17 impaired by intoxicating liquor or a controlled substance, or with
18 an unlawful blood alcohol content, 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 (xvii) A violation of a local ordinance substantially
22 corresponding to a violation enumerated in subparagraphs (i) to
23 (xvi).

24 (xviii) A violation charged as a crime or serious misdemeanor
25 enumerated in subparagraphs (i) to (xvii) but subsequently reduced to
26 or pleaded to as a misdemeanor. As used in this subparagraph,
27 "crime" means that term as defined in section 2.

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

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

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

8 (e) "Person" means an individual, organization, partnership,
9 corporation, or governmental entity.

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

13 (g) "Prosecuting attorney" means the prosecuting attorney for
14 a county, an assistant prosecuting attorney for a county, the
15 attorney general, the deputy attorney general, an assistant
16 attorney general, a special prosecuting attorney, or, in connection
17 with the prosecution of an ordinance violation, an attorney for the
18 political subdivision that enacted the ordinance upon which the
19 violation is based.

20 (h) "Victim" means any of the following:

21 (i) An individual who suffers direct or threatened physical,
22 financial, or emotional harm as a result of the commission of a
23 serious misdemeanor, except as provided in subparagraph (ii), (iii),
24 or (iv).

25 (ii) The following individuals other than the defendant if the
26 victim is deceased:

27 (A) The spouse of the deceased victim.

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

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

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

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

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

12 (iii) A parent, guardian, or custodian of a victim who is less
13 than 18 years of age and who is neither the defendant nor
14 incarcerated, if the parent, guardian, or custodian so chooses. **FOR**
15 **THE PURPOSE OF MAKING AN IMPACT STATEMENT ONLY, A PARENT, GUARDIAN,**
16 **OR CUSTODIAN OF A VICTIM WHO IS LESS THAN 18 YEARS OF AGE AT THE**
17 **TIME OF THE COMMISSION OF THE CRIME AND WHO IS NEITHER THE**
18 **DEFENDANT NOR INCARCERATED, IF THE PARENT, GUARDIAN, OR CUSTODIAN**
19 **SO CHOOSES.**

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

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

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

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

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

17 Enacting section 1. This amendatory act takes effect July 1,
18 2014.