

SUBSTITUTE FOR  
HOUSE BILL NO. 5900

A bill to amend 1985 PA 87, entitled  
"William Van Regenmorter crime victim's rights act,"  
by amending the title and section 23 (MCL 780.773), the title as  
amended by 1988 PA 22 and section 23 as amended by 1988 PA 21, and  
by adding section 12a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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TITLE

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; **TO**  
**REQUIRE EMPLOYERS TO PROVIDE UNPAID LEAVE TO VICTIMS TO ATTEND**  
**COURT PROCEEDINGS;** and to provide for penalties and remedies.

House Bill No. 5900 (H-1) as amended April 22, 2008

1           SEC. 12A. (1) AN EMPLOYEE WHO IS A VICTIM IS ENTITLED TO A  
2 TOTAL OF NOT MORE THAN 12 WORKWEEKS OF UNPAID LEAVE DURING ANY 12-  
3 MONTH PERIOD TO ATTEND THE TRIAL OR OTHER COURT PROCEEDING OF THE  
4 DEFENDANT.

5           (2) AN EMPLOYEE SHALL PROVIDE HIS OR HER EMPLOYER WITH ALL OF  
6 THE FOLLOWING IF REQUESTING UNPAID LEAVE UNDER THIS SECTION:

7           (A) REASONABLE NOTICE OF THE DATE, TIME, AND ANTICIPATED  
8 DURATION OF THE TRIAL OR COURT PROCEEDING FOR WHICH UNPAID LEAVE IS  
9 SOUGHT.

10           (B) [A COPY OF THE NOTICE SENT TO THE VICTIM BY THE PROSECUTING  
11 ATTORNEY UNDER SECTION 6.

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14           (3) AN EMPLOYEE WHO IS GRANTED UNPAID LEAVE UNDER THIS SECTION  
15 SHALL PROVIDE HIS OR HER EMPLOYER WITH A STATEMENT FROM THE CLERK  
16 OF THE COURT IN WHICH THE TRIAL OR COURT PROCEEDING OCCURRED  
17 CONFIRMING THE DATE AND TIME THAT THE EMPLOYEE ATTENDED THE TRIAL  
18 OR COURT PROCEEDING. THE STATEMENT REQUIRED UNDER THIS SUBSECTION  
19 SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT OF ATTORNEY  
20 GENERAL.

21           (4) AN EMPLOYER SHALL NOT DISCHARGE, DEMOTE, SUSPEND,  
22 RETALIATE AGAINST, OR IN ANY OTHER MANNER DISCRIMINATE AGAINST AN  
23 EMPLOYEE FOR, OR PROHIBIT OR DISCOURAGE AN EMPLOYEE FROM,  
24 REQUESTING UNPAID LEAVE UNDER THIS SECTION. AN EMPLOYER WHO  
25 VIOLATES THIS SUBSECTION IS LIABLE TO AN EMPLOYEE IN A CIVIL ACTION  
26 FOR ALL DAMAGES INCURRED, INCLUDING REASONABLE ATTORNEY FEES.

27           (5) AN EMPLOYEE WHO IS A VICTIM SHALL NOT LOSE SENIORITY AND

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1 OTHER RIGHTS AND BENEFITS THAT ARE DETERMINED BY SENIORITY FOR  
2 USING LEAVE TIME TO ATTEND A TRIAL OR OTHER COURT PROCEEDING OF THE  
3 DEFENDANT.

4 (6) AN EMPLOYEE MAY ELECT TO USE OR AN EMPLOYER MAY REQUIRE  
5 THE EMPLOYEE TO USE THE EMPLOYEE'S ACCRUED PAID VACATION, PERSONAL  
6 LEAVE, OR SICK LEAVE FOR ANY PART OF THE LEAVE PROVIDED UNDER THIS  
7 SECTION.

8 [(7) AN EMPLOYER MAY LIMIT THE LEAVE PROVIDED UNDER THIS ACT IF THE  
9 EMPLOYEE'S LEAVE WOULD CREATE AN UNDUE HARDSHIP TO THE EMPLOYER'S  
10 BUSINESS.]

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16 [(8)] AN EMPLOYER SHALL KEEP CONFIDENTIAL THE RECORDS RELATING  
17 TO AN EMPLOYEE'S LEAVE UNDER THIS SECTION.

18 [(9)] AS USED IN THIS SECTION:

19 (A) "EMPLOYEE" MEANS A PERSON WHO [HAS BEEN EMPLOYED FOR AT  
20 LEAST 12 MONTHS BY THE EMPLOYER WITH RESPECT TO WHOM LEAVE IS REQUESTED  
21 AND HAS AT LEAST 1,250 HOURS OF SERVICE WITH SUCH EMPLOYER DURING THE  
22 PREVIOUS 12-MONTH PERIOD. ] EMPLOYEE INCLUDES A

23 PERSON EMPLOYED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS  
24 STATE, EXCEPT STATE CLASSIFIED CIVIL SERVICE.

25 (B) "EMPLOYER" MEANS A PERSON WHO HAS 25 OR MORE EMPLOYEES.  
26 EMPLOYER INCLUDES AN AGENT OF AN EMPLOYER IN THIS STATE OR A  
27 POLITICAL SUBDIVISION OF THIS STATE.

1           (C) "UNDUE HARDSHIP" MEANS A SIGNIFICANT DIFFICULTY OR EXPENSE  
2 TO A BUSINESS, TAKING INTO CONSIDERATION THE SIZE OF THE EMPLOYER'S  
3 BUSINESS AND THE EMPLOYER'S CRITICAL NEED OF THE EMPLOYEE.

4           Sec. 23. ~~Nothing in this article shall be construed as~~  
5 ~~creating~~ EXCEPT AS PROVIDED IN SECTION 12A, THIS ARTICLE DOES NOT  
6 CREATE a cause of action for money damages against the state, a  
7 county, OR a municipality or any of ~~their~~ ITS agencies, or  
8 instrumentalities, or employees.

9           Enacting section 1. This amendatory act does not take effect  
10 unless all of the following bills of the 94th Legislature are  
11 enacted into law:

12           (a) House Bill No. 5901.

13           (b) House Bill No. 5902.