

HOUSE BILL No. 5902

March 13, 2008, Introduced by Reps. Coulouris, Bieda, Polidori, Corriveau, Accavitti, Virgil Smith, Meadows, Wojno, Kathleen Law, Leland, Johnson, Jackson, Condino, Dean and Hammon 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 50 (MCL 780.800), as added by 1988 PA 22, and
by adding section 40a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 40A. (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.

1 (B) A STATEMENT FROM THE PROSECUTING ATTORNEY CONFIRMING THAT
2 THE EMPLOYEE IS A VICTIM. THE STATEMENT REQUIRED UNDER THIS
3 SUBDIVISION SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT OF
4 ATTORNEY GENERAL.

5 (3) AN EMPLOYEE WHO IS GRANTED UNPAID LEAVE UNDER THIS SECTION
6 SHALL PROVIDE HIS OR HER EMPLOYER WITH A STATEMENT FROM THE CLERK
7 OF THE COURT IN WHICH THE TRIAL OR COURT PROCEEDING OCCURRED
8 CONFIRMING THE DATE AND TIME THAT THE EMPLOYEE ATTENDED THE TRIAL
9 OR COURT PROCEEDING. THE STATEMENT REQUIRED UNDER THIS SUBSECTION
10 SHALL BE IN A FORM PRESCRIBED BY THE DEPARTMENT OF ATTORNEY
11 GENERAL.

12 (4) AN EMPLOYER SHALL NOT DISCHARGE AN EMPLOYEE FOR, OR
13 PROHIBIT OR DISCOURAGE AN EMPLOYEE FROM, REQUESTING UNPAID LEAVE
14 UNDER THIS SECTION. AN EMPLOYER WHO VIOLATES THIS SUBSECTION IS
15 LIABLE TO AN EMPLOYEE IN A CIVIL ACTION FOR ALL DAMAGES INCURRED,
16 INCLUDING REASONABLE ATTORNEY FEES.

17 (5) AN EMPLOYEE WHO IS A VICTIM SHALL NOT LOSE SENIORITY AND
18 OTHER RIGHTS AND BENEFITS THAT ARE DETERMINED BY SENIORITY FOR
19 USING LEAVE TIME TO ATTEND A TRIAL OR OTHER COURT PROCEEDING OF THE
20 DEFENDANT.

21 (6) AS USED IN THIS SECTION:

22 (A) "EMPLOYEE" MEANS A PERSON WHO PERFORMS A SERVICE FOR WAGES
23 OR OTHER REMUNERATION UNDER A CONTRACT OF HIRE, WRITTEN OR ORAL,
24 EXPRESS OR IMPLIED. EMPLOYEE INCLUDES A PERSON EMPLOYED BY THIS
25 STATE OR A POLITICAL SUBDIVISION OF THIS STATE, EXCEPT STATE
26 CLASSIFIED CIVIL SERVICE.

27 (B) "EMPLOYER" MEANS A PERSON WHO HAS 25 OR MORE EMPLOYEES.

1 EMPLOYER INCLUDES AN AGENT OF AN EMPLOYER IN THIS STATE OR A
2 POLITICAL SUBDIVISION OF THIS STATE.

3 Sec. 50. ~~Nothing in this article shall be construed as~~
4 ~~creating~~ EXCEPT AS PROVIDED IN SECTION 40A, THIS ARTICLE DOES NOT
5 CREATE a cause of action for money damages against the state, a
6 county, or a municipality or any of ~~their~~ ITS agencies,
7 instrumentalities, or employees.

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

11 (a) Senate Bill No. ____ or House Bill No. 5900 (request no.
12 06379'08 *).

13 (b) Senate Bill No. ____ or House Bill No. 5901 (request no.
14 06590'08).