

Legislative Analysis



PROVIDE VICTIM ORAL IMPACT STATEMENT REMOTELY

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House Bill 4423 as reported from committee

Sponsor: Rep. Greg VanWoerkom

Committee: Criminal Justice

Complete to 6-5-23

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 178 of 2023)

SUMMARY:

House Bill 4423 would amend the William Van Regenmorter Crime Victim's Rights Act to allow a victim oral impact statement to be made remotely.

Currently, a victim has the right to appear and make an oral impact statement at the defendant's sentencing or juvenile's disposition or sentencing. A victim who is physically or emotionally unable to make the oral impact statement may designate an adult (but not the defendant or someone who is incarcerated) to make it on the victim's behalf. The defendant or juvenile must be physically present in the courtroom during an oral impact statement, unless the court determines that the defendant or juvenile is disruptive or a threat to anyone's safety. In making this determination, the court may consider any relevant statement provided by a victim as to the defendant's or juvenile's physical presence during that victim's oral impact statement.

The bill would amend the above provisions to additionally allow the victim to choose to provide the oral impact statement remotely.

MCL 780.795 et seq.

BACKGROUND:

House Bill 4423 is a reintroduction of House Bill 5681 of the 2021-22 legislative session. That bill was passed by the House of Representatives.

BRIEF DISCUSSION:

Victim impact statements play an important role in the criminal justice system. After the perpetrator of a crime has been sentenced, any victims of that crime are given a chance to tell how they have been impacted by the crime—physically, financially, and emotionally. They can describe the changes to their lives resulting from injuries, loss of a loved one, or loss of property. To many, the ability to make an oral victim impact statement gives them a voice in obtaining justice and can be part of the healing process. Some crimes, however, are particularly heinous and traumatic, making it difficult for some to be present in the same room as the perpetrator. The bill would give a victim the choice of how to give their oral statement—either in person or remotely. Since the pandemic, remote proceedings in courtrooms have become more common. In addition, because victim impact statements are part of the sentencing phase, and not the trial phase, the perpetrator has already been found guilty and therefore due process rights, such as the right to face one's accuser, would not be affected.

FISCAL IMPACT:

House Bill 4423 will have no fiscal impact on the state or on local units of government.

POSITIONS:

Representatives from the following entities testified in support of the bill (5-16-23):

- Prosecuting Attorneys Association of Michigan (PAAM)
- Michigan Coalition to End Domestic and Sexual Violence

The following entities indicated support for the bill:

- Michigan Domestic and Sexual Violence Prevention and Treatment Board (5-16-23)
- State Bar of Michigan (5-23-23)
- Michigan Catholic Conference (5-23-23)
- Michigan Poverty Law Program (5-16-23)

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