

HOUSE BILL NO. 5409

January 23, 2024, Introduced by Reps. Bruck, Maddock, Alexander, Johnsen, Kunse, Fox and Wozniak and referred to the Committee on Criminal Justice.

A bill to provide a system for reviewing case files or reinvestigations of certain cold case homicides; to adopt certain policies; to require the promulgation of rules; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "homicide victim's family
2 rights act".

3 Sec. 3. This act applies to a cold case homicide that occurred
4 on or after January 1, 1970.

1 Sec. 5. As used in this act:

2 (a) "Case file review" means the review of a cold case
3 homicide file.

4 (b) "Cold case homicide" means a homicide that meets all of
5 the following conditions:

6 (i) Was committed more than 3 years before the date a
7 designated person made an application under section 9.

8 (ii) Was previously investigated by a law enforcement agency.

9 (iii) All probative investigative leads have been exhausted.

10 (iv) No likely perpetrator has been identified.

11 (c) "Designated person" means an immediate family member of
12 the victim or a legal representative of the immediate family member
13 of the victim.

14 (d) "Homicide" means any crime in which the death of a human
15 being is an element of that crime.

16 (e) "Immediate family member" means a parent, parent-in-law,
17 grandparent, grandparent-in-law, sibling, spouse, child, or
18 stepchild of a victim.

19 (f) "Law enforcement agency" means any of the following:

20 (i) The department of state police.

21 (ii) A local law enforcement agency that has jurisdiction to
22 engage in the detection, investigation, or prosecution of a cold
23 case homicide.

24 (g) "Probative investigative leads" means evidence that is
25 sufficiently useful to prove an element of the crime and was not
26 identified or determined as part of the previous investigation by a
27 law enforcement agency.

28 (h) "Victim" means a natural person who died as a result of a
29 cold case homicide.

1 Sec. 7. No later than 90 days after the effective date of this
2 act, a law enforcement agency shall do all of the following:

3 (a) Promulgate rules to ensure compliance with this act.

4 (b) Develop a written application to be used by a designated
5 person to request a case file review under this act.

6 (c) Adopt a written policy to ensure compliance with this act.
7 A written policy adopted under this act must include, but is not
8 limited to, all of the following:

9 (i) The process to designate an administrative authority or a
10 person within the law enforcement agency to receive and investigate
11 complaints relating to a case file review or reinvestigation of a
12 cold case homicide under this act.

13 (ii) Disciplinary sanctions for employees of the law
14 enforcement agency that violate this act.

15 (iii) Procedures for the resolution of a complaint filed by a
16 designated person concerning the law enforcement agency's handling
17 of a case file review or reinvestigation of a cold case homicide
18 under this act.

19 Sec. 9. (1) No later than 14 business days after a written
20 application by a designated person, a law enforcement agency shall
21 conduct a case file review to determine if a full reinvestigation
22 of a cold case homicide would result in either the identification
23 of probative investigative leads or a likely perpetrator. Only 1
24 case file review must be undertaken at any time with respect to the
25 same cold case homicide victim.

26 (2) A case file review conducted under subsection (1) must
27 include all of the following:

28 (a) An analysis of what investigative steps or follow-up steps
29 may have been missed in the initial investigation.

1 (b) An assessment of whether witnesses should be interviewed
2 or reinterviewed.

3 (c) An examination of physical evidence to see if all
4 appropriate forensic testing and analysis was performed in the
5 first instance or if additional testing might produce information
6 relevant to the investigation.

7 (d) An update of the case file using the most current
8 investigative standards as of the date of the review to the extent
9 it would help develop probative investigative leads.

10 (3) An individual who previously investigated the cold case
11 homicide at issue shall not conduct a case file review under this
12 section.

13 Sec. 11. (1) If, after conducting a case file review under
14 section 9, a law enforcement agency determines that a full
15 reinvestigation of the cold case homicide is not warranted, the law
16 enforcement agency shall, as soon as practicable, issue a written
17 certification to the designated person that submitted the
18 application for the case file review. The written certification
19 issued under this subsection must state that a full reinvestigation
20 is not warranted because all probative leads have been exhausted or
21 a likely perpetrator will not be identified. If a law enforcement
22 agency determines that a full reinvestigation of the cold case
23 homicide is not warranted under this subsection, no additional case
24 file review for the cold case homicide must be conducted for a
25 period of 5 years unless there is newly discovered, materially
26 significant evidence.

27 (2) If, after conducting a case file review under section 9, a
28 law enforcement agency determines that a full reinvestigation of
29 the cold case homicide is warranted, the law enforcement agency

1 shall reinvestigate the cold case homicide. If a full
2 reinvestigation of a cold case homicide is completed under this
3 subsection and no probative investigative leads or perpetrator is
4 identified at its conclusion, no additional case file review for
5 the cold case homicide must be conducted for a period of 5 years
6 unless there is newly discovered, materially significant evidence.

7 (3) Nothing in this act prohibits a law enforcement agency
8 from continuing the investigation of a cold case homicide without a
9 designated person's application.

10 (4) Nothing in this act requires a law enforcement agency to
11 do any of the following:

12 (a) Provide information that would endanger the safety of any
13 person or unreasonably impede an ongoing investigation.

14 (b) Violate a court order.

15 (c) Violate privacy rights.

16 Sec. 13. If more than 1 law enforcement agency conduct case
17 file reviews or reinvestigations of a cold case homicide, the law
18 enforcement agencies shall coordinate their case file reviews or
19 reinvestigations of the cold case homicide such that there is only
20 1 joint case file review or reinvestigation of the cold case
21 homicide occurring at a time.