

# HOUSE BILL No. 6116

August 4, 2004, Introduced by Reps. Kolb, Condino, Meisner, Jamnick, Vagnozzi, Accavitti and Farrah and referred to the Committee on Criminal Justice.

A bill to amend 1985 PA 87, entitled  
"Crime victim's rights act,"  
by amending the title and sections 23, 50, and 82 (MCL 780.773, 780.800, and 780.832), the title as amended and section 50 as added by 1988 PA 22 and section 23 as amended and section 82 as added by 1988 PA 21, and by adding sections 12a, 40a, and 72a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

### TITLE

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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

1 remedies.

2       Sec. 12a. (1) An employee who is a victim is entitled to a  
3 total of not more than 12 workweeks of unpaid leave during any  
4 12-month period to attend the trial or other court proceeding of  
5 the defendant.

6       (2) An employee shall provide his or her employer with all of  
7 the following if requesting unpaid leave under this section:

8       (a) Reasonable notice of the date, time, and anticipated  
9 duration of the trial or court proceeding for which unpaid leave  
10 is sought.

11       (b) A statement from the prosecuting attorney confirming that  
12 the employee is a victim. The statement required under this  
13 subdivision shall be in a form prescribed by the department of  
14 attorney general.

15       (3) An employee who is granted unpaid leave under this  
16 section shall provide his or her employer with a statement from  
17 the clerk of the court in which the trial or court proceeding  
18 occurred confirming the date and time that the employee attended  
19 the trial or court proceeding. The statement required under this  
20 section shall be in a form prescribed by the department of  
21 attorney general.

22       (4) An employer shall not discharge an employee for, or  
23 prohibit or discourage an employee from, requesting unpaid leave  
24 under this section. An employer who violates this subsection is  
25 liable to an employee in a civil action for all damages incurred,  
26 including reasonable attorney fees.

27       (5) An employee who is a victim shall not lose seniority and

1 other rights and benefits that are determined by seniority for  
2 using leave time to attend a trial or other court proceeding of  
3 the defendant.

4 (6) As used in this section:

5 (a) "Employee" means a person who performs a service for  
6 wages or other remuneration under a contract of hire, written or  
7 oral, express or implied. Employee includes a person employed by  
8 this state or a political subdivision of this state, except state  
9 classified civil service.

10 (b) "Employer" means a person who has 25 or more employees.  
11 Employer includes an agent of an employer in this state or a  
12 political subdivision of this state.

13 Sec. 23. ~~Nothing in this article shall be construed as~~  
14 ~~creating~~ Except as provided in section 12a, this article does  
15 not create a cause of action for money damages against the state,  
16 a county, or a municipality or any of ~~their~~ its agencies, ~~or~~  
17 instrumentalities, or employees.

18 Sec. 40a. (1) An employee who is a victim is entitled to a  
19 total of not more than 12 workweeks of unpaid leave during any  
20 12-month period to attend the trial or other court proceeding of  
21 the defendant.

22 (2) An employee shall provide his or her employer with all of  
23 the following if requesting unpaid leave under this section:

24 (a) Reasonable notice of the date, time, and anticipated  
25 duration of the trial or court proceeding for which unpaid leave  
26 is sought.

27 (b) A statement from the prosecuting attorney confirming that

1 the employee is a victim. The statement required under this  
2 subdivision shall be in a form prescribed by the department of  
3 attorney general.

4 (3) An employee who is granted unpaid leave under this  
5 section shall provide his or her employer with a statement from  
6 the clerk of the court in which the trial or court proceeding  
7 occurred confirming the date and time that the employee attended  
8 the trial or court proceeding. The statement required under this  
9 section shall be in a form prescribed by the department of  
10 attorney general.

11 (4) An employer shall not discharge an employee for, or  
12 prohibit or discourage an employee from, requesting unpaid leave  
13 under this section. An employer who violates this subsection is  
14 liable to an employee in a civil action for all damages incurred,  
15 including reasonable attorney fees.

16 (5) An employee who is a victim shall not lose seniority and  
17 other rights and benefits that are determined by seniority for  
18 using leave time to attend a trial or other court proceeding of  
19 the defendant.

20 (6) As used in this section:

21 (a) "Employee" means a person who performs a service for  
22 wages or other remuneration under a contract of hire, written or  
23 oral, express or implied. Employee includes a person employed by  
24 this state or a political subdivision of this state, except state  
25 classified civil service.

26 (b) "Employer" means a person who has 25 or more employees.  
27 Employer includes an agent of an employer in this state or a

1 political subdivision of this state.

2       Sec. 50. ~~Nothing in this article shall be construed as~~  
3 ~~creating~~ Except as provided in section 40a, this article does  
4 not create a cause of action for money damages against the state,  
5 a county, or a municipality or any of ~~their~~ its agencies,  
6 instrumentalities, or employees.

7       Sec. 72a. (1) An employee who is a victim is entitled to a  
8 total of not more than 12 workweeks of unpaid leave during any  
9 12-month period to attend the trial or other court proceeding of  
10 the defendant.

11       (2) An employee shall provide his or her employer with all of  
12 the following if requesting unpaid leave under this section:

13       (a) Reasonable notice of the date, time, and anticipated  
14 duration of the trial or court proceeding for which unpaid leave  
15 is sought.

16       (b) A statement from the prosecuting attorney confirming that  
17 the employee is a victim. The statement required under this  
18 subdivision shall be in a form prescribed by the department of  
19 attorney general.

20       (3) An employee who is granted unpaid leave under this  
21 section shall provide his or her employer with a statement from  
22 the clerk of the court in which the trial or court proceeding  
23 occurred confirming the date and time that the employee attended  
24 the trial or court proceeding. The statement required under this  
25 section shall be in a form prescribed by the department of  
26 attorney general.

27       (4) An employer shall not discharge an employee for, or

1 prohibit or discourage an employee from, requesting unpaid leave  
2 under this section. An employer who violates this subsection is  
3 liable to an employee in a civil action for all damages incurred,  
4 including reasonable attorney fees.

5 (5) An employee who is a victim shall not lose seniority and  
6 other rights and benefits that are determined by seniority for  
7 using leave time to attend a trial or other court proceeding of  
8 the defendant.

9 (6) As used in this section:

10 (a) "Employee" means a person who performs a service for  
11 wages or other remuneration under a contract of hire, written or  
12 oral, express or implied. Employee includes a person employed by  
13 this state or a political subdivision of this state, except state  
14 classified civil service.

15 (b) "Employer" means a person who has 25 or more employees.  
16 Employer includes an agent of an employer in this state or a  
17 political subdivision of this state.

18 Sec. 82. ~~Nothing in this article shall be construed as~~  
19 ~~creating~~ Except as provided in section 72a, this article does  
20 not create a cause of action for money damages against the state,  
21 a county, or a municipality or any of ~~their~~ its agencies,  
22 instrumentalities, or employees.