

HOUSE BILL No. 4588

April 12, 2005, Introduced by Rep. Van Regenmorter and referred to the Committee on
Judiciary.

A bill to amend 1985 PA 87, entitled
"Crime victim's rights act,"
by amending sections 2, 6, 13a, 16, 16a, 18, 18a, 19, 20, 21, 31,
44, 44a, 46, 47, 61, 65, 76, 76a, 78, and 81 (MCL 780.752, 780.756,
780.763a, 780.766, 780.766a, 780.768, 780.768a, 780.769, 780.770,
780.771, 780.781, 780.794, 780.794a, 780.796, 780.797, 780.811,
780.815, 780.826, 780.826a, 780.828, and 780.831), sections 2, 6,
13a, 16, 18a, 19, 21, 31, 44, 46, 61, 65, 76, and 78 as amended by
2000 PA 503, sections 16a, 44a, and 76a as amended by 2003 PA 98,
and sections 18, 47, and 81 as amended by 1996 PA 562, and by
adding section 19a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as otherwise defined in this article, as

1 used in this article:

2 (A) "CENTER" MEANS THAT TERM AS DEFINED IN SECTION 100A OF THE
3 MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100A.

4 (B) ~~-(a)-~~ "County juvenile agency" means that term as defined
5 in section 2 of the county juvenile agency act, 1998 PA 518, MCL
6 45.622.

7 (C) ~~-(b)-~~ "Crime" means a violation of a penal law of this
8 state for which the offender, upon conviction, may be punished by
9 imprisonment for more than 1 year or an offense expressly
10 designated by law as a felony.

11 (D) ~~-(c)-~~ "Defendant" means a person charged with, ~~-or~~
12 convicted of, OR FOUND NOT GUILTY BY REASON OF INSANITY OF
13 committing a crime against a victim.

14 (E) ~~-(d)-~~ "Final disposition" means the ultimate termination
15 of the criminal prosecution of a defendant including, but not
16 limited to, dismissal, acquittal, or imposition of sentence by the
17 court.

18 (F) ~~-(e)-~~ "Juvenile" means a person within the jurisdiction
19 of the circuit court under section 606 of the revised judicature
20 act of 1961, 1961 PA 236, MCL 600.606.

21 (G) ~~-(f)-~~ "Juvenile facility" means a county facility,
22 institution operated as an agency of the county or the family
23 division of circuit court, or an institution or agency described in
24 the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
25 803.309, to which a juvenile has been committed or in which a
26 juvenile is detained.

27 (H) "HOSPITAL" MEANS THAT TERM AS DEFINED IN SECTION 100B OF

1 **THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100B.**

2 (I) ~~(g)~~ "Person" means an individual, organization,
3 partnership, corporation, or governmental entity.

4 (J) ~~(h)~~ "Prisoner" means a person who has been convicted
5 and sentenced to imprisonment or placement in a juvenile facility
6 for having committed a crime or an act that would be a crime if
7 committed by an adult against a victim.

8 (K) ~~(i)~~ "Prosecuting attorney" means the prosecuting
9 attorney for a county, an assistant prosecuting attorney for a
10 county, the attorney general, the deputy attorney general, an
11 assistant attorney general, or a special prosecuting attorney.

12 (L) ~~(j)~~ "Victim" means any of the following:

13 (i) An individual who suffers direct or threatened physical,
14 financial, or emotional harm as a result of the commission of a
15 crime, except as provided in subparagraph (ii), (iii), or (iv).

16 (ii) The following individuals other than the defendant if the
17 victim is deceased:

18 (A) The spouse of the deceased victim.

19 (B) A child of the deceased victim if the child is 18 years of
20 age or older and sub-subparagraph (A) does not apply.

21 (C) A parent of a deceased victim if sub-subparagraphs (A) and
22 (B) do not apply.

23 (D) The guardian or custodian of a child of a deceased victim
24 if the child is less than 18 years of age and sub-subparagraphs (A)
25 to (C) do not apply.

26 (E) A sibling of the deceased victim if sub-subparagraphs (A)
27 to (D) do not apply.

1 (F) A grandparent of the deceased victim if sub-subparagraphs
2 (A) to (E) do not apply.

3 (iii) A parent, guardian, or custodian of a victim who is less
4 than 18 years of age and who is neither the defendant nor
5 incarcerated, if the parent, guardian, or custodian so chooses.

6 (iv) A parent, guardian, or custodian of a victim who is
7 mentally or emotionally unable to participate in the legal process
8 if he or she is neither the defendant nor incarcerated.

9 (2) If a victim as defined in subsection ~~-(1)(j)(i)-~~ (1)(l)(i)
10 is physically or emotionally unable to exercise the privileges and
11 rights under this article, the victim may designate his or her
12 spouse, child 18 years of age or older, parent, sibling,
13 grandparent, or any other person 18 years of age or older who is
14 neither the defendant nor incarcerated to act in his or her place
15 while the physical or emotional disability continues. The victim
16 shall provide the prosecuting attorney with the name of the person
17 who is to act in his or her place. During the physical or emotional
18 disability, notices to be provided under this article to the victim
19 shall continue to be sent only to the victim.

20 (3) An individual who is charged with a crime arising out of
21 the same transaction from which the charge against the defendant
22 arose is not eligible to exercise the privileges and rights
23 established for victims under this article.

24 (4) An individual who is incarcerated is not eligible to
25 exercise the privileges and rights established for victims under
26 this article except that he or she may submit a written statement
27 to the court for consideration at sentencing.

1 Sec. 6. (1) Not later than 7 days after the defendant's
2 arraignment for a crime, but not less than 24 hours before a
3 preliminary examination, the prosecuting attorney shall give to
4 each victim a written notice in plain English of each of the
5 following:

6 (a) A brief statement of the procedural steps in the
7 processing of a criminal case.

8 (b) A specific list of the rights and procedures under this
9 article.

10 (c) A convenient means for the victim to notify the
11 prosecuting attorney that the victim chooses to exercise his or her
12 rights under this article.

13 (d) Details and eligibility requirements for compensation from
14 the crime victim services commission under 1976 PA 223, MCL 18.351
15 to 18.368.

16 (e) Suggested procedures if the victim is subjected to threats
17 or intimidation.

18 (f) The person to contact for further information.

19 (2) If the victim requests, the prosecuting attorney shall
20 give the victim notice of any scheduled court proceedings and any
21 changes in that schedule.

22 (3) Before finalizing any negotiation that may result in a
23 dismissal, plea or sentence bargain, or pretrial diversion, the
24 prosecuting attorney shall offer the victim the opportunity to
25 consult with the prosecuting attorney to obtain the victim's views
26 about the disposition of the prosecution for the crime, including
27 the victim's views about dismissal, plea or sentence negotiations,

1 and pretrial diversion programs.

2 (4) A victim who receives a notice under subsection (1) and
3 who chooses to receive any notice or exercise any right under this
4 article shall keep the following persons informed of the victim's
5 current address and telephone number:

6 (a) The prosecuting attorney, until final disposition or
7 completion of the appellate process, whichever occurs later.

8 (b) The department of corrections or the sheriff, as the
9 prosecuting attorney directs, if the defendant is imprisoned.

10 (c) The ~~family independence agency~~ **DEPARTMENT OF HUMAN**
11 **SERVICES** or county juvenile agency, as the prosecuting attorney
12 directs, if the defendant is held in a juvenile facility.

13 **(D) THE HOSPITAL OR CENTER, AS THE PROSECUTING ATTORNEY**
14 **DIRECTS, IF THE DEFENDANT IS HOSPITALIZED IN OR ADMITTED TO A**
15 **HOSPITAL OR A CENTER.**

16 Sec. 13a. When a defendant is sentenced to a term of
17 imprisonment, ~~or~~ ordered to be placed in a juvenile facility,
18 **SENTENCED TO PROBATION, OR HOSPITALIZED IN OR ADMITTED TO A**
19 **HOSPITAL OR A CENTER,** the prosecuting attorney shall provide the
20 victim with a form the victim may submit to receive the notices
21 provided for under section 19, **19A,** 20, or 20a. The form shall
22 include the address of the department of corrections, the sheriff,
23 the ~~family independence agency, or~~ **DEPARTMENT OF HUMAN SERVICES,**
24 the county juvenile agency, **THE PROBATION OFFICE, OR THE HOSPITAL**
25 **OR CENTER,** as applicable, to which the form may be sent.

26 Sec. 16. (1) ~~For purposes of this section only, "victim"~~
27 ~~means an individual who suffers direct or threatened physical,~~

1 ~~financial, or emotional harm as a result of the commission of a~~
2 ~~crime. For purposes of~~ **AS USED IN** subsections (2), (3), (6), (8),
3 (9), and (13) **ONLY**, victim includes, **IN ADDITION TO A VICTIM AS**
4 **DEFINED IN SECTION 2**, a sole proprietorship, partnership,
5 corporation, association, governmental entity, or any other legal
6 entity that suffers direct physical or financial harm as a result
7 of a crime.

8 (2) Except as provided in subsection (8), when sentencing a
9 defendant convicted of a crime, the court shall order, in addition
10 to or in lieu of any other penalty authorized by law or in addition
11 to any other penalty required by law, that the defendant make full
12 restitution to any victim of the defendant's course of conduct that
13 gives rise to the conviction or to the victim's estate. **FOR AN**
14 **OFFENSE THAT IS RESOLVED BY ASSIGNMENT OF THE DEFENDANT TO YOUTHFUL**
15 **TRAINEE STATUS, BY A DEFERRED OR DELAYED SENTENCE OR ENTRY OF**
16 **JUDGMENT, OR IN ANOTHER WAY THAT IS NOT AN ACQUITTAL, CONVICTION,**
17 **OR UNCONDITIONAL DISMISSAL, THE COURT SHALL ORDER THE RESTITUTION**
18 **REQUIRED UNDER THIS SECTION.**

19 (3) If a crime results in damage to or loss or destruction of
20 property of a victim of the crime or results in the seizure or
21 impoundment of property of a victim of the crime, the order of
22 restitution may require that the defendant do 1 or more of the
23 following, as applicable:

24 (a) Return the property to the owner of the property or to a
25 person designated by the owner.

26 (b) If return of the property under subdivision (a) is
27 impossible, impractical, or inadequate, pay an amount equal to the

1 greater of subparagraph (i) or (ii), less the value, determined as of
2 the date the property is returned, of that property or any part of
3 the property that is returned:

4 (i) The value of the property on the date of the damage, loss,
5 or destruction.

6 (ii) The value of the property on the date of sentencing.

7 (c) Pay the costs of the seizure or impoundment, or both.

8 (4) If a crime results in physical or psychological injury to
9 a victim, the order of restitution may require that the defendant
10 do 1 or more of the following, as applicable:

11 (a) Pay an amount equal to the reasonably determined cost of
12 medical and related professional services and devices actually
13 incurred and reasonably expected to be incurred relating to
14 physical and psychological care.

15 (b) Pay an amount equal to the reasonably determined cost of
16 physical and occupational therapy and rehabilitation actually
17 incurred and reasonably expected to be incurred.

18 (c) Reimburse the victim or the victim's estate for after-tax
19 income loss suffered by the victim as a result of the crime.

20 (d) Pay an amount equal to the reasonably determined cost of
21 psychological and medical treatment for members of the victim's
22 family actually incurred and reasonably expected to be incurred as
23 a result of the crime.

24 (e) Pay an amount equal to the reasonably determined costs of
25 homemaking and child care expenses actually incurred and reasonably
26 expected to be incurred as a result of the crime or, if homemaking
27 or child care is provided without compensation by a relative,

1 friend, or any other person, an amount equal to the costs that
 2 would reasonably be incurred as a result of the crime for that
 3 homemaking and child care, based on the rates in the area for
 4 comparable services.

5 (f) Pay an amount equal to the cost of actual funeral and
 6 related services.

7 (g) If the deceased victim could be claimed as a dependent by
 8 his or her parent or guardian on the parent's or guardian's
 9 federal, state, or local income tax returns, pay an amount equal to
 10 the loss of the tax deduction or tax credit. The amount of
 11 reimbursement shall be estimated for each year the victim could
 12 reasonably be claimed as a dependent.

13 (5) If a crime resulting in bodily injury also results in the
 14 death of a victim or serious impairment of a body function of a
 15 victim, the court may order up to 3 times the amount of restitution
 16 otherwise allowed under this section. As used in this subsection,
 17 "serious impairment of a body function" ~~of a victim" includes, but~~
 18 ~~is not limited to, 1 or more of the following:~~ **MEANS THAT TERM AS**
 19 **DEFINED IN SECTION 58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,**
 20 **MCL 257.58C.**

21 ~~—— (a) Loss of a limb or use of a limb.~~

22 ~~—— (b) Loss of a hand or foot or use of a hand or foot.~~

23 ~~—— (c) Loss of an eye or use of an eye or ear.~~

24 ~~—— (d) Loss or substantial impairment of a bodily function.~~

25 ~~—— (e) Serious visible disfigurement.~~

26 ~~—— (f) A comatose state that lasts for more than 3 days.~~

27 ~~—— (g) Measurable brain damage or mental impairment.~~

1 ~~—— (h) A skull fracture or other serious bone fracture.~~

2 ~~—— (i) Subdural hemorrhage or subdural hematoma.~~

3 ~~—— (j) Loss of a body organ.~~

4 (6) If the victim or victim's estate consents, the order of
5 restitution may require that the defendant make restitution in
6 services in lieu of money.

7 (7) If the victim is deceased, the court shall order that the
8 restitution be made to the victim's estate.

9 (8) The court shall order restitution to the crime victim
10 services commission or to any individuals, partnerships,
11 corporations, associations, governmental entities, or other legal
12 entities that have compensated the victim or the victim's estate
13 for a loss incurred by the victim to the extent of the compensation
14 paid for that loss. The court shall also order restitution for the
15 costs of services provided to persons or entities that have
16 provided services to the victim as a result of the crime. Services
17 that are subject to restitution under this subsection include, but
18 are not limited to, shelter, food, clothing, and transportation.
19 However, an order of restitution shall require that all restitution
20 to a victim or victim's estate under the order be made before any
21 restitution to any other person or entity under that order is made.
22 The court shall not order restitution to be paid to a victim or
23 victim's estate if the victim or victim's estate has received or is
24 to receive compensation for that loss, and the court shall state on
25 the record with specificity the reasons for its action.

26 (9) Any amount paid to a victim or victim's estate under an
27 order of restitution shall be set off against any amount later

1 recovered as compensatory damages by the victim or the victim's
2 estate in any federal or state civil proceeding and shall reduce
3 the amount payable to a victim or a victim's estate by an award
4 from the crime victim services commission made after an order of
5 restitution under this section.

6 (10) If not otherwise provided by the court under this
7 subsection, restitution shall be made immediately. However, the
8 court may require that the defendant make restitution under this
9 section within a specified period or in specified installments.

10 (11) If the defendant is placed on probation or paroled or the
11 court imposes a conditional sentence as provided in section 3 of
12 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
13 769.3, any restitution ordered under this section shall be a
14 condition of that probation, parole, or sentence. The court may
15 revoke probation or impose imprisonment under the conditional
16 sentence and the parole board may revoke parole if the defendant
17 fails to comply with the order and if the defendant has not made a
18 good faith effort to comply with the order. In determining whether
19 to revoke probation or parole or impose imprisonment, the court or
20 parole board shall consider the defendant's employment status,
21 earning ability, and financial resources, the willfulness of the
22 defendant's failure to pay, and any other special circumstances
23 that may have a bearing on the defendant's ability to pay.

24 (12) ~~A~~ **SUBJECT TO SUBSECTION (18), A** defendant who is
25 required to pay restitution and who is not in willful default of
26 the payment of the restitution may at any time petition the
27 sentencing judge or his or her successor to modify the method of

1 payment. If the court determines that payment under the order will
2 impose a manifest hardship on the defendant or his or her immediate
3 family, and if the court also determines that modifying the method
4 of payment will not impose a manifest hardship on the victim, the
5 court may modify the method of payment.

6 (13) An order of restitution entered under this section
7 remains effective until it is satisfied in full. An order of
8 restitution is a judgment and lien against all property of the
9 defendant for the amount specified in the order of restitution. The
10 lien may be recorded as provided by law. An order of restitution
11 may be enforced by the prosecuting attorney, a victim, a victim's
12 estate, or any other person or entity named in the order to receive
13 the restitution in the same manner as a judgment in a civil action
14 or a lien.

15 (14) Notwithstanding any other provision of this section, a
16 defendant shall not be imprisoned, jailed, or incarcerated for a
17 violation of probation or parole or otherwise for failure to pay
18 restitution as ordered under this section unless the court or
19 parole board determines that the defendant has the resources to pay
20 the ordered restitution and has not made a good faith effort to do
21 so.

22 (15) If the court determines that a juvenile is or will be
23 unable to pay all of the restitution ordered, after notice to the
24 juvenile's parent or parents and an opportunity for the parent or
25 parents to be heard the court may order the parent or parents
26 having supervisory responsibility for the juvenile at the time of
27 the acts upon which an order of restitution is based to pay any

1 portion of the restitution ordered that is outstanding. An order
2 under this subsection does not relieve the juvenile of his or her
3 obligation to pay restitution as ordered, but the amount owed by
4 the juvenile shall be offset by any amount paid by his or her
5 parent. As used in this subsection:

6 (a) "Juvenile" means a person within the court's jurisdiction
7 under section 2d or 4 of chapter XIIIA of the probate code of 1939,
8 1939 PA 288, MCL 712A.2d and 712A.4.

9 (b) "Parent" does not include a foster parent.

10 (16) If the court orders a parent to pay restitution under
11 subsection (15), the court shall take into account the parent's
12 financial resources and the burden that the payment of restitution
13 will impose, with due regard to any other moral or legal financial
14 obligations the parent may have. If a parent is required to pay
15 restitution under subsection (15), the court shall provide for
16 payment to be made in specified installments and within a specified
17 period of time.

18 (17) A parent who has been ordered to pay restitution under
19 subsection (15) may petition the court for a modification of the
20 amount of restitution owed by the parent or for a cancellation of
21 any unpaid portion of the parent's obligation. The court shall
22 cancel all or part of the parent's obligation due if the court
23 determines that payment of the amount due will impose a manifest
24 hardship on the parent and if the court also determines that
25 modifying the method of payment will not impose a manifest hardship
26 on the victim.

27 (18) In each case in which payment of restitution is ordered

1 as a condition of probation **OR PAROLE**, the court ~~may~~ **SHALL** order
2 any employed defendant to execute a wage assignment to pay the
3 restitution. The probation officer assigned to the case shall
4 review the case not less than twice yearly to ensure that
5 restitution is being paid as ordered. If the restitution was
6 ordered to be made within a specific period of time, the probation
7 officer assigned to the case shall review the case at the end of
8 the specific period of time to determine if the restitution has
9 been paid in full. The final review shall be conducted not less
10 than 60 days before the probationary period expires. If the
11 probation officer determines at any review that restitution is not
12 being paid as ordered, the probation officer shall file a written
13 report of the violation with the court on a form prescribed by the
14 state court administrative office or shall petition the court for a
15 probation violation. The report or petition shall include a
16 statement of the amount of the arrearage and any reasons for the
17 arrearage known by the probation officer. The probation officer
18 shall immediately provide a copy of the report or petition to the
19 prosecuting attorney. If a petition or motion is filed or other
20 proceedings are initiated to enforce payment of restitution and the
21 court determines that restitution is not being paid or has not been
22 paid as ordered by the court, the court shall promptly take action
23 necessary to compel compliance.

24 (19) If a defendant who is ordered to pay restitution under
25 this section is remanded to the jurisdiction of the department of
26 corrections, the court shall provide a copy of the order of
27 restitution to the department of corrections when the defendant is

1 remanded to the department's jurisdiction.

2 (20) The court shall not impose a fee on a victim, victim's
3 estate, or prosecuting attorney for enforcing an order of
4 restitution.

5 (21) If a person or entity entitled to restitution **UNDER THIS**
6 **SECTION** cannot be located, ~~or~~ refuses to claim ~~that~~ **THE**
7 restitution within 2 years after the date on which he or she could
8 have claimed the restitution, **REFUSES TO ACCEPT THE RESTITUTION, OR**
9 **CANNOT CLAIM THE RESTITUTION BECAUSE OF A PROVISION OF LAW,**
10 **INCLUDING A PROVISION ABOLISHING TORT LIABILITY,** the restitution
11 ~~paid~~ to **WHICH** that person or entity **IS OR WOULD OTHERWISE BE**
12 **ENTITLED** shall be deposited in the crime victim's rights fund
13 created under section 4 of 1989 PA 196, MCL 780.904, or its
14 successor fund. However, a person or entity entitled to that
15 restitution may claim that restitution any time by applying to the
16 court that originally ordered and collected it. The court shall
17 notify the crime victim services commission of the application and
18 the commission shall approve a reduction in the court's revenue
19 transmittal to the crime victim rights fund equal to the
20 restitution owed to the person or entity. The court shall use the
21 reduction to reimburse that restitution to the person or entity.

22 **(22) A COURT THAT RECEIVES NOTICE THAT A DEFENDANT WHO HAS AN**
23 **OBLIGATION TO PAY RESTITUTION UNDER THIS SECTION HAS DECLARED**
24 **BANKRUPTCY SHALL FORWARD A COPY OF THAT NOTICE TO THE VICTIM AND TO**
25 **ANY OTHER PERSON TO WHOM THE RESTITUTION IS OWED.**

26 Sec. 16a. (1) If a person is subject to any combination of
27 fines, costs, restitution, assessments, probation or parole

1 supervision fees, or other payments arising out of the same
2 criminal proceeding, money collected from that person for the
3 payment of fines, costs, restitution, assessments, probation or
4 parole supervision fees, or other payments **ORDERED TO BE PAID IN**
5 **THAT PROCEEDING** shall be allocated as provided in this section.
6 **UNLESS FULL RESTITUTION AND ALL ASSESSMENTS HAVE BEEN PAID IN A**
7 **PROCEEDING, MONEY COLLECTED FOR THE PAYMENT OF FINES, COSTS,**
8 **RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE SUPERVISION FEES, OR**
9 **OTHER PAYMENTS IN THAT PROCEEDING SHALL NOT BE APPLIED TO THE**
10 **PAYMENT OF FINES, COSTS, PROBATION OR PAROLE SUPERVISION FEES, OR**
11 **OTHER PAYMENTS ORDERED IN ANOTHER CASE OR PROCEEDING.**

12 (2) Except as otherwise provided in this subsection, if a
13 person is subject to payment of victim payments and any combination
14 of other fines, costs, assessments, probation or parole supervision
15 fees, or other payments, 50% of each payment collected by the court
16 from that person shall be applied to payment of victim payments,
17 and the balance shall be applied to payment of fines, costs,
18 supervision fees, and other assessments or payments. If any fines,
19 costs, supervision fees, or other assessments or payments remain
20 unpaid after all of the victim payments have been paid, any
21 additional money collected shall be applied to payment of those
22 fines, costs, supervision fees, or other assessments or payments.
23 If any victim payments remain unpaid after all of the fines, costs,
24 supervision fees, or other assessments or payments have been paid,
25 any additional money collected shall be applied toward payment of
26 those victim payments.

27 (3) In cases involving prosecutions for violations of state

1 law, money allocated under subsection (2) for payment of fines,
2 costs, probation and parole supervision fees, and assessments or
3 payments other than victim payments shall be applied in the
4 following order of priority:

5 (a) Payment of the minimum state cost prescribed by section 1j
6 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
7 769.1j.

8 (b) Payment of other costs.

9 (c) Payment of fines.

10 (d) Payment of probation or parole supervision fees.

11 (e) Payment of assessments and other payments, including
12 reimbursement to third parties who reimbursed a victim for his or
13 her loss.

14 (4) In cases involving prosecutions for violations of local
15 ordinances, money allocated under subsection (2) for payment of
16 fines, costs, and assessments or payments other than victim
17 payments shall be applied in the following order of priority:

18 (a) Payment of the minimum state cost prescribed by section 1j
19 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
20 769.1j.

21 (b) Payment of fines and other costs.

22 (c) Payment of assessments and other payments.

23 (5) As used in this section, "victim payment" means
24 restitution ordered to be paid to the victim ~~—, to~~ OR the victim's
25 estate, but not to a person who reimbursed the victim for his or
26 her loss; or an assessment ordered under section 5 of 1989 PA 196,
27 MCL 780.905.

1 Sec. 18. (1) A person convicted of a crime shall not derive
2 any profit from the sale of his or her recollections, thoughts,
3 ~~and~~ OR feelings with regard to the offense committed by that
4 person, **OR FROM THE SALE OF THE PERSON'S MEMORABILIA OR PROPERTY,**
5 **THE VALUE OF WHICH HAS BEEN ENHANCED OR INCREASED BY THE PERSON'S**
6 **NOTORIETY,** until the victim receives any restitution or
7 compensation ordered for him or her against the defendant, ~~and~~
8 expenses of incarceration are ~~recovered as provided in~~ **PAID UNDER**
9 subsection (3), and ~~until~~ **ANY BALANCE IN** the escrow account
10 created under subsection (2) is ~~terminated~~ **PAID** under subsection
11 (4).

12 (2) Upon the conviction of a defendant for a crime involving a
13 victim, and after notice to ~~any interested party~~ **ALL INTERESTED**
14 **PARTIES,** an attorney for the county in which the conviction
15 occurred or the attorney general may petition the court in which
16 the conviction occurred to order that **THE** defendant forfeit all or
17 any part of proceeds received or to be received by the defendant ~~—~~
18 or the defendant's representatives or assignees ~~—~~ from contracts
19 relating to the depiction of the crime or the defendant's
20 recollections, thoughts, or feelings about the crime, in books,
21 magazines, media entertainment, or live entertainment, ~~as provided~~
22 ~~in this section~~ **FROM THE SALE OF MEMORABILIA OF THE CRIME, OR FROM**
23 **THE SALE OF PROPERTY OF THE DEFENDANT, THE VALUE OF WHICH HAS BEEN**
24 **ENHANCED OR INCREASED BY THE DEFENDANT'S NOTORIETY ARISING FROM THE**
25 **CRIME.** The proceeds shall be held in escrow for a period of not
26 more than 5 years.

27 (3) During the existence of ~~the~~ **AN** escrow account **CREATED**

1 **UNDER SUBSECTION (2)**, proceeds in the account shall be distributed
2 in the following priority to satisfy the following:

3 (a) An order of restitution entered under ~~sections 16 and 17~~
4 **SECTION 16**.

5 (b) Any civil judgment in favor of the victim against ~~that~~
6 **THE** defendant.

7 (c) Any reimbursement ordered under the prisoner reimbursement
8 to the county act, ~~Act No. 118 of the Public Acts of 1984, being~~
9 ~~sections 801.81 to 801.93 of the Michigan Compiled Laws, or ordered~~
10 ~~under 1984 PA 118, MCL 801.81 TO 801.93, OR~~ the state correctional
11 facility reimbursement act, ~~Act No. 253 of the Public Acts of~~
12 ~~1935, being sections 800.401 to 800.406 of the Michigan Compiled~~
13 ~~Laws 1935 PA 253, MCL 800.401 TO 800.406.~~

14 (4) ~~The~~ **A** balance remaining in ~~the~~ **AN** escrow account
15 **CREATED UNDER SUBSECTION (2)** at the end of the escrow period shall
16 be paid to the crime victim's rights ~~assessment~~ fund **CREATED IN**
17 **SECTION 4 OF 1989 PA 196, MCL 780.904.**

18 Sec. 18a. (1) Upon the request of the victim, the prosecuting
19 attorney shall notify the victim **IF 1 OR MORE** of the following
20 **OCCUR:**

21 (a) ~~That the defendant filed~~ **THE DEFENDANT FILES** an appeal
22 of his or her conviction or sentence or ~~that~~ the prosecuting
23 attorney ~~filed~~ **FILES** an appeal.

24 (b) ~~Whether the defendant has been~~ **THE DEFENDANT IS** ordered
25 released on bail or other recognizance pending the disposition of
26 ~~the~~ **AN** appeal. If the prosecuting attorney is notified that the
27 defendant has been ordered released on bail or other recognizance

1 pending disposition of the appeal, the prosecuting attorney shall
2 use any means reasonably calculated to give the victim notice of
3 that order within 24 hours after the prosecuting attorney is
4 notified of the order.

5 (c) ~~The time and place of any appellate~~ **APPELLATE** court
6 ~~proceedings~~ **ORAL ARGUMENTS ARE SCHEDULED. THE PROSECUTING ATTORNEY**
7 **SHALL GIVE THE VICTIM NOTICE OF THE TIME AND PLACE** and any changes
8 in the time or place of those ~~proceedings~~ **ARGUMENTS**.

9 (d) ~~The result of the~~ **A DECISION OR ORDER IS ENTERED ON AN**
10 appeal. **THE PROSECUTING ATTORNEY SHALL GIVE THE VICTIM NOTICE OF**
11 **THE RESULTS OF THE APPEAL**. If the conviction is ordered reversed,
12 the sentence is vacated, the case is remanded for a new trial, or
13 the prosecuting attorney's appeal is denied, and if the prosecuting
14 attorney has filed the appropriate notice with the appellate court,
15 the appellate court shall expedite delivery of the relevant
16 document to the prosecuting attorney's office by any means
17 reasonably calculated to give the prosecuting attorney prompt
18 notice. The prosecuting attorney shall use any means reasonably
19 calculated to give the victim notice of that order within 24 hours
20 after the prosecuting attorney is notified of the order.

21 (2) If ~~the~~ **A** prosecuting attorney is not successful in
22 notifying ~~the~~ **A** victim of an event described in subsection (1)
23 within the ~~period set forth~~ **TIME PRESCRIBED** in that subsection,
24 the prosecuting attorney shall notify the victim of that event as
25 soon as possible by any means reasonably calculated to give the
26 victim prompt actual notice.

27 (3) ~~Upon the request of the victim, the~~ **A** prosecuting

1 attorney shall provide ~~the~~ **A** victim with a brief explanation in
2 plain English of the appeal process, including the possible
3 dispositions.

4 (4) If ~~the~~ **A** case is returned to the trial court for further
5 proceedings or a new trial, the victim has the same rights as
6 previously requested during the proceedings that led to the appeal.

7 Sec. 19. (1) Upon the victim's written request, the sheriff or
8 the department of corrections shall mail to the victim the
9 following, as applicable, about a prisoner who has been sentenced
10 to imprisonment under the jurisdiction of the sheriff or the
11 department for the crime against that victim:

12 (a) Within 30 days after the request, notice of the sheriff's
13 calculation of the prisoner's earliest release date or the
14 department's calculation of the prisoner's earliest parole
15 eligibility date, with all potential good time or disciplinary
16 credits considered, if the sentence of imprisonment exceeds 90
17 days. ~~The victim may request 1 time only notice of the calculation~~
18 ~~described in this subdivision.~~

19 (b) Notice of the prisoner's transfer or pending transfer to a
20 minimum security facility and the facility's address.

21 (c) Notice of the prisoner's release or pending release in a
22 community residential program or under furlough; any other transfer
23 to community status; any transfer from 1 community residential
24 program or electronic monitoring program to another; or any
25 transfer from a community residential program or electronic
26 monitoring program to a state correctional facility.

27 (d) Notice of the escape of the person accused, convicted, or

1 imprisoned for committing a crime against the victim, as provided
2 in section 20.

3 (e) Notice of the victim's right to address or submit a
4 written statement for consideration by a parole board member or a
5 member of any other panel having authority over the prisoner's
6 release on parole, as provided in section 21.

7 (f) Notice of the decision of the parole board, or any other
8 panel having authority over the prisoner's release on parole, after
9 a parole review, as provided in section ~~21(3)~~ 21.

10 (g) Notice of the release of a prisoner 90 days before the
11 date of the prisoner's discharge from prison, unless the notice has
12 been otherwise provided under this article.

13 (h) Notice of a public hearing under section 44 of **THE**
14 **CORRECTIONS CODE OF 1953**, 1953 PA 232, MCL 791.244, regarding a
15 reprieve, commutation, or pardon of the prisoner's sentence by the
16 governor.

17 (i) Notice that a reprieve, commutation, or pardon has been
18 granted.

19 (j) Notice that a prisoner has had his or her name legally
20 changed while on parole or within 2 years after release from
21 parole.

22 (k) Notice that a prisoner has been convicted of a new crime.

23 (l) Notice that a prisoner has been returned from parole status
24 to a correctional facility due to an alleged violation of the
25 conditions of his or her parole.

26 **(2) UPON THE VICTIM'S WRITTEN REQUEST, THE PROBATION OFFICE**
27 **OVERSEEING A DEFENDANT'S SENTENCE OF PROBATION SHALL NOTIFY THE**

1 VICTIM IF THE PROBATION IS REVOKED AND THE DEFENDANT IS SENTENCED
2 TO THE DEPARTMENT OF CORRECTIONS OR TO JAIL FOR MORE THAN 90 DAYS.
3 THE NOTICE SHALL INCLUDE A FORM THE VICTIM MAY SUBMIT TO THE
4 DEPARTMENT OF CORRECTIONS OR THE SHERIFF TO RECEIVE NOTICES UNDER
5 SUBSECTION (1) OR SECTION 20 OR 20A. THE FORM SHALL INCLUDE THE
6 ADDRESS OF THE DEPARTMENT OF CORRECTIONS OR THE SHERIFF TO WHICH
7 THE FORM MAY BE SENT.

8 (3) ~~-(2)-~~ A victim's address and telephone number maintained
9 by a sheriff or the department of corrections upon a request for
10 notice under ~~subsection (1) is~~ THIS SECTION ARE exempt from
11 disclosure under the freedom of information act, 1976 PA 442, MCL
12 15.231 to 15.246.

13 SEC. 19A. (1) ON A VICTIM'S WRITTEN REQUEST, THE DIRECTOR OF A
14 HOSPITAL OR CENTER WHERE A DEFENDANT FOUND NOT GUILTY BY REASON OF
15 INSANITY HAS BEEN HOSPITALIZED OR ADMITTED BY COURT ORDER SHALL
16 MAIL TO THE VICTIM NOTICE OF THE FOLLOWING:

17 (A) A PENDING TRANSFER OF THE DEFENDANT TO A LESS SECURE
18 HOSPITAL OR CENTER.

19 (B) A PENDING TRANSFER OF THE DEFENDANT TO ALTERNATIVE CARE OR
20 TREATMENT OR COMMUNITY PLACEMENT.

21 (C) A PENDING LEAVE, ABSENCE, FURLOUGH, OR OTHER RELEASE FROM
22 CONFINEMENT FOR THE DEFENDANT, WHETHER TEMPORARY OR PERMANENT.

23 (2) A DIRECTOR OF A HOSPITAL OR CENTER SHALL MAIL A NOTICE
24 REQUIRED BY SUBSECTION (1) BEFORE THE ACTION THAT IS THE SUBJECT OF
25 THE NOTICE.

26 (3) A VICTIM'S ADDRESS AND TELEPHONE NUMBER MAINTAINED BY A
27 HOSPITAL OR CENTER UNDER THIS SECTION IS EXEMPT FROM DISCLOSURE

1 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
2 15.246.

3 Sec. 20. (1) ~~As provided in subsection (2) or (3),~~ **THE**
4 **PERSON DESIGNATED IN SUBSECTIONS (2) TO (4) SHALL GIVE** a victim who
5 requests notice ~~of the escape~~ and the prosecuting attorney who is
6 prosecuting or has prosecuted the crime for which ~~the person~~ **A**
7 **DEFENDANT** is detained, ~~or~~ under sentence, ~~shall be given~~
8 **HOSPITALIZED, OR ADMITTED TO A CENTER** immediate notice of the
9 escape of the ~~person~~ **DEFENDANT** accused, convicted, ~~or~~
10 imprisoned, **HOSPITALIZED, OR ADMITTED** for committing a crime
11 against the victim. The notice shall be given by any means
12 reasonably calculated to give prompt actual notice.

13 (2) If ~~the~~ **AN** escape **FOR WHICH A NOTICE UNDER THIS SECTION**
14 **IS REQUIRED** occurs before ~~the~~ sentence is executed or before the
15 defendant is delivered to the department of corrections,
16 **HOSPITALIZED, OR ADMITTED TO A CENTER,** the chief law enforcement
17 officer of the agency in charge of the person's detention shall
18 give notice of the escape to the prosecuting attorney, who shall
19 then give notice of the escape to ~~a~~ **THE** victim who requested
20 notice.

21 (3) If the defendant is confined ~~pursuant to~~ **UNDER** a
22 sentence, the notice **REQUIRED UNDER THIS SECTION** shall be given by
23 the chief administrator of the place in which the prisoner is
24 confined.

25 (4) **IF THE DEFENDANT IS HOSPITALIZED UNDER AN ORDER OF**
26 **HOSPITALIZATION OR ADMITTED TO A CENTER UNDER AN ORDER OF**
27 **ADMISSION, THE NOTICE REQUIRED UNDER THIS SECTION SHALL BE GIVEN BY**

1 THE DIRECTOR OF THE HOSPITAL IN WHICH THE DEFENDANT IS HOSPITALIZED
2 OR BY THE DIRECTOR OF THE CENTER TO WHICH THE DEFENDANT IS
3 ADMITTED.

4 Sec. 21. (1) A victim ~~shall have~~ HAS the right to address or
5 submit a written statement for consideration by a parole board
6 member or a member of any other panel having authority over the
7 prisoner's release on parole.

8 (2) Not less than 30 days before a review of the prisoner's
9 release, a victim who has requested notice under section 19(1)(f)
10 shall be given written notice by the department of corrections
11 informing the victim of the pending review and of victims' rights
12 under this section. The victim, at his or her own expense, may be
13 represented by counsel at the review.

14 (3) A victim shall receive notice of the decision of the board
15 or panel and, if applicable, notice of the date of the prisoner's
16 release on parole. Notice shall be mailed within a reasonable time
17 after the board or panel reaches its decision but not later than 14
18 days after the board or panel has reached its decision. The notice
19 shall include a statement of the victim's right to appeal a parole
20 decision, as allowed under section ~~34(9)~~ 34 of THE CORRECTIONS
21 CODE OF 1953, 1953 PA 232, MCL 791.234.

22 (4) A RECORD OF AN ORAL STATEMENT OR A WRITTEN STATEMENT MADE
23 UNDER SUBSECTION (1) IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF
24 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

25 Sec. 31. (1) Except as otherwise defined in this article, as
26 used in this article:

27 (a) "County juvenile agency" means that term as defined in

1 section 2 of the county juvenile agency act, 1998 PA 518, MCL
2 45.622.

3 (b) "Court" means the family division of circuit court.

4 (c) "Designated case" means a case designated as a case in
5 which the juvenile is to be tried in the same manner as an adult
6 under section 2d of chapter XIIA of the probate code of 1939, 1939
7 PA 288, MCL 712A.2d.

8 (d) "Juvenile" means an individual alleged or found to be
9 within the court's jurisdiction under section 2(a)(1) of chapter
10 XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, for an
11 offense, including, but not limited to, an individual in a
12 designated case.

13 (e) "Juvenile facility" means a county facility, an
14 institution operated as an agency of the county or the court, or an
15 institution or agency described in the youth rehabilitation
16 services act, 1974 PA 150, MCL 803.301 to 803.309, to which a
17 juvenile has been committed or in which a juvenile is detained.

18 (f) "Offense" means 1 or more of the following:

19 (i) A violation of a penal law of this state for which a
20 juvenile offender, if convicted as an adult, may be punished by
21 imprisonment for more than 1 year or an offense expressly
22 designated by law as a felony.

23 (ii) A violation of section 81 (assault and battery, including
24 domestic violence), 81a (assault; infliction of serious injury,
25 including aggravated domestic violence), 115 (breaking and entering
26 or illegal entry), ~~136b(5)~~ **136B(6)** (child abuse in the fourth
27 degree), **145 (CONTRIBUTING TO THE NEGLECT OR DELINQUENCY OF A**

1 **MINOR)**, 145a (enticing a child for immoral purposes), **145D (USING**
2 **THE INTERNET OR A COMPUTER TO MAKE A PROHIBITED COMMUNICATION)**, 234
3 (discharge of a firearm intentionally aimed at a person), 235
4 (discharge of an intentionally aimed firearm resulting in injury),
5 335a (indecent exposure), or 411h (stalking) of the Michigan penal
6 code, 1931 PA 328, MCL 750.81, 750.81a, 750.115, 750.136b, **750.145,**
7 **750.145a, 750.145D,** 750.234, 750.235, 750.335a, and 750.411h.

8 (iii) A violation of section **601B(2) (INJURING A WORKER IN A**
9 **WORK ZONE) OR** 617a (leaving the scene of a personal injury
10 accident) of the Michigan vehicle code, 1949 PA 300, MCL **257.601B**
11 **AND** 257.617a, or a violation of section 625 (operating a vehicle
12 while under the influence of or impaired by intoxicating liquor or
13 a controlled substance, or with unlawful blood alcohol content) of
14 that act, MCL 257.625, if the violation involves an accident
15 resulting in damage to another individual's property or physical
16 injury or death to another individual.

17 (iv) Selling or furnishing alcoholic liquor to an individual
18 less than 21 years of age in violation of section 33 of the former
19 1933 (Ex Sess) PA 8, or section 701 of the Michigan liquor control
20 code of 1998, 1998 PA 58, MCL 436.1701, if the violation results in
21 physical injury or death to any individual.

22 (v) A violation of section 80176(1) or (3) (operating a vessel
23 while under the influence of or impaired by intoxicating liquor or
24 a controlled substance, or with unlawful blood alcohol content) of
25 the natural resources and environmental protection act, 1994 PA
26 451, MCL 324.80176, if the violation involves an accident resulting
27 in damage to another individual's property or physical injury or

1 death to any individual.

2 (vi) A violation of a local ordinance substantially
3 corresponding to a law enumerated in subparagraphs (i) to (v).

4 (vii) A violation described in subparagraphs (i) to (vi) that is
5 subsequently reduced to a violation not included in subparagraphs
6 (i) to (vi).

7 (g) "Person" means an individual, organization, partnership,
8 corporation, or governmental entity.

9 (h) "Prosecuting attorney" means the prosecuting attorney for
10 a county, an assistant prosecuting attorney for a county, the
11 attorney general, the deputy attorney general, an assistant
12 attorney general, a special prosecuting attorney, or, in connection
13 with the prosecution of an ordinance violation, an attorney for the
14 political subdivision that enacted the ordinance upon which the
15 violation is based.

16 (i) "Victim" means any of the following:

17 (i) A person who suffers direct or threatened physical,
18 financial, or emotional harm as a result of the commission of an
19 offense, except as provided in subparagraph (ii), (iii), or (iv).

20 (ii) The following individuals other than the juvenile if the
21 victim is deceased:

22 (A) The spouse of the deceased victim.

23 (B) A child of the deceased victim if the child is 18 years of
24 age or older and sub-subparagraph (A) does not apply.

25 (C) A parent of a deceased victim if sub-subparagraphs (A) and
26 (B) do not apply.

27 (D) The guardian or custodian of a child of a deceased victim

1 if the child is less than 18 years of age and sub-subparagraphs (A)
2 to (C) do not apply.

3 (E) A sibling of the deceased victim if sub-subparagraphs (A)
4 to (D) do not apply.

5 (F) A grandparent of the deceased victim if sub-subparagraphs
6 (A) to (E) do not apply.

7 (iii) A parent, guardian, or custodian of a victim who is less
8 than 18 years of age and who is neither the defendant nor
9 incarcerated, if the parent, guardian, or custodian so chooses.

10 (iv) A parent, guardian, or custodian of a victim who is
11 mentally or emotionally unable to participate in the legal process
12 if he or she is neither the defendant nor incarcerated.

13 (2) If a victim as defined in subsection ~~(1)(h)(i)~~ **(1)(I)(i)**
14 is physically or emotionally unable to exercise the privileges and
15 rights under this article, the victim may designate his or her
16 spouse, child 18 years of age or older, parent, sibling,
17 grandparent, or any other person 18 years of age or older who is
18 neither the defendant nor incarcerated to act in his or her place
19 while the physical or emotional disability continues. The victim
20 shall provide the prosecuting attorney with the name of the person
21 who is to act in his or her place. During the physical or emotional
22 disability, notices to be provided under this article to the victim
23 shall continue to be sent only to the victim.

24 (3) An individual who is charged with an offense arising out
25 of the same transaction from which the charge against the defendant
26 arose is not eligible to exercise the privileges and rights
27 established for victims under this article.

1 Sec. 44. (1) ~~For purposes of~~ **AS USED IN** this section only:

2 (a) "Offense" means a violation of a penal law of this state
3 or a violation of an ordinance of a local unit of government of
4 this state punishable by imprisonment or by a fine that is not a
5 civil fine.

6 (b) "Victim", ~~means an individual who suffers direct or~~
7 ~~threatened physical, financial, or emotional harm as a result of~~
8 ~~the commission of an offense. For purposes of~~ **IN** subsections (2),
9 (3), (6), (8), (9), and (13) **ONLY**, ~~victim~~ includes, **IN ADDITION**
10 **TO A VICTIM AS DEFINED IN SECTION 31**, a sole proprietorship,
11 partnership, corporation, association, governmental entity, or any
12 other legal entity that suffers direct physical or financial harm
13 as a result of an offense.

14 (2) Except as provided in subsection (8), at the dispositional
15 hearing or sentencing for an offense, the court shall order, in
16 addition to or in lieu of any other disposition or penalty
17 authorized by law, that the juvenile make full restitution to any
18 victim of the juvenile's course of conduct that gives rise to the
19 disposition or conviction or to the victim's estate. For an offense
20 that is resolved informally by means of a consent calendar
21 diversion or any other informal method that does not result in a
22 dispositional hearing, the court shall order the restitution
23 required under this section.

24 (3) If an offense results in damage to or loss or destruction
25 of property of a victim of the offense or results in the seizure or
26 impoundment of property of a victim of the offense, the order of
27 restitution may require that the juvenile do 1 or more of the

1 following, as applicable:

2 (a) Return the property to the owner of the property or to a
3 person designated by the owner.

4 (b) If return of the property under subdivision (a) is
5 impossible, impractical, or inadequate, pay an amount equal to the
6 greater of subparagraph (i) or (ii), less the value, determined as of
7 the date the property is returned, of that property or any part of
8 the property that is returned:

9 (i) The value of the property on the date of the damage, loss,
10 or destruction.

11 (ii) The value of the property on the date of disposition.

12 (c) Pay the costs of the seizure or impoundment, or both.

13 (4) If an offense results in physical or psychological injury
14 to a victim, the order of restitution may require that the juvenile
15 do 1 or more of the following, as applicable:

16 (a) Pay an amount equal to the reasonably determined cost of
17 medical and related professional services and devices actually
18 incurred and reasonably expected to be incurred relating to
19 physical and psychological care.

20 (b) Pay an amount equal to the reasonably determined cost of
21 physical and occupational therapy and rehabilitation actually
22 incurred and reasonably expected to be incurred.

23 (c) Reimburse the victim or the victim's estate for after-tax
24 income loss suffered by the victim as a result of the offense.

25 (d) Pay an amount equal to the reasonably determined cost of
26 psychological and medical treatment for members of the victim's
27 family actually incurred or reasonably expected to be incurred as a

1 result of the offense.

2 (e) Pay an amount equal to the reasonably determined costs of
3 homemaking and child care expenses actually incurred or reasonably
4 expected to be incurred as a result of the offense or, if
5 homemaking or child care is provided without compensation by a
6 relative, friend, or any other person, an amount equal to the costs
7 that would reasonably be incurred as a result of the offense for
8 that homemaking and child care, based on the rates in the area for
9 comparable services.

10 (f) Pay an amount equal to the cost of actual funeral and
11 related services.

12 (g) If the deceased victim could be claimed as a dependent by
13 his or her parent or guardian on the parent's or guardian's
14 federal, state, or local income tax returns, pay an amount equal to
15 the loss of the tax deduction or tax credit. The amount of
16 reimbursement shall be estimated for each year the victim could
17 reasonably be claimed as a dependent.

18 (5) If an offense resulting in bodily injury also results in
19 the death of a victim or serious impairment of a body function of a
20 victim, the court may order up to 3 times the amount of restitution
21 otherwise allowed under this section. As used in this subsection,
22 "serious impairment of a body function" ~~of a victim" includes, but~~
23 ~~is not limited to, 1 or more of the following:~~ **MEANS THAT TERM AS**
24 **DEFINED IN SECTION 58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,**
25 **MCL 257.58C.**

26 ~~—— (a) Loss of a limb or use of a limb.~~

27 ~~—— (b) Loss of a hand or foot or use of a hand or foot.~~

- 1 ~~—— (c) Loss of an eye or use of an eye or ear.~~
2 ~~—— (d) Loss or substantial impairment of a bodily function.~~
3 ~~—— (e) Serious visible disfigurement.~~
4 ~~—— (f) A comatose state that lasts for more than 3 days.~~
5 ~~—— (g) Measurable brain damage or mental impairment.~~
6 ~~—— (h) A skull fracture or other serious bone fracture.~~
7 ~~—— (i) Subdural hemorrhage or subdural hematoma.~~
8 ~~—— (j) Loss of a body organ.~~

9 (6) If the victim or victim's estate consents, the order of
10 restitution may require that the juvenile make restitution in
11 services in lieu of money.

12 (7) If the victim is deceased, the court shall order that the
13 restitution be made to the victim's estate.

14 (8) The court shall order restitution to the crime victim
15 services commission or to any individuals, partnerships,
16 corporations, associations, governmental entities, or other legal
17 entities that have compensated the victim or the victim's estate
18 for a loss incurred by the victim to the extent of the compensation
19 paid for that loss. The court shall also order restitution for the
20 costs of services provided to persons or entities that have
21 provided services to the victim as a result of the offense.
22 Services that are subject to restitution under this subsection
23 include, but are not limited to, shelter, food, clothing, and
24 transportation. However, an order of restitution shall require that
25 all restitution to a victim or victim's estate under the order be
26 made before any restitution to any other person or entity under
27 that order is made. The court shall not order restitution to be

1 paid to a victim or victim's estate if the victim or victim's
2 estate has received or is to receive compensation for that loss,
3 and the court shall state on the record with specificity the
4 reasons for its action.

5 (9) Any amount paid to a victim or victim's estate under an
6 order of restitution shall be set off against any amount later
7 recovered as compensatory damages by the victim or the victim's
8 estate in any federal or state civil proceeding and shall reduce
9 the amount payable to a victim or a victim's estate by an award
10 from the crime victim services commission made after an order of
11 restitution under this section.

12 (10) If not otherwise provided by the court under this
13 subsection, restitution shall be made immediately. However, the
14 court may require that the juvenile make restitution under this
15 section within a specified period or in specified installments.

16 (11) If the juvenile is placed on probation, any restitution
17 ordered under this section shall be a condition of that probation.
18 The court may revoke probation if the juvenile fails to comply with
19 the order and if the juvenile has not made a good faith effort to
20 comply with the order. In determining whether to revoke probation,
21 the court shall consider the juvenile's employment status, earning
22 ability, and financial resources, the willfulness of the juvenile's
23 failure to pay, and any other special circumstances that may have a
24 bearing on the juvenile's ability to pay.

25 (12) ~~A~~ **SUBJECT TO SUBSECTION (18)**, A juvenile who is
26 required to pay restitution and who is not in willful default of
27 the payment of the restitution may at any time petition the court

1 to modify the method of payment. If the court determines that
2 payment under the order will impose a manifest hardship on the
3 juvenile or his or her immediate family, and if the court also
4 determines that modifying the method of payment will not impose a
5 manifest hardship on the victim, the court may modify the method of
6 payment.

7 (13) An order of restitution entered under this section
8 remains effective until it is satisfied in full. An order of
9 restitution is a judgment and lien against all property of the
10 individual ordered to pay restitution for the amount specified in
11 the order of restitution. The lien may be recorded as provided by
12 law. An order of restitution may be enforced by the prosecuting
13 attorney, a victim, a victim's estate, or any other person or
14 entity named in the order to receive the restitution in the same
15 manner as a judgment in a civil action or a lien.

16 (14) Notwithstanding any other provision of this section, a
17 juvenile shall not be detained or imprisoned for a violation of
18 probation or parole or otherwise for failure to pay restitution as
19 ordered under this section unless the court determines that the
20 juvenile has the resources to pay the ordered restitution and has
21 not made a good faith effort to do so.

22 (15) If the court determines that the juvenile is or will be
23 unable to pay all of the restitution ordered, after notice to the
24 juvenile's parent or parents and an opportunity for the parent or
25 parents to be heard, the court may order the parent or parents
26 having supervisory responsibility for the juvenile at the time of
27 the acts upon which an order of restitution is based to pay any

1 portion of the restitution ordered that is outstanding. An order
2 under this subsection does not relieve the juvenile of his or her
3 obligation to pay restitution as ordered, but the amount owed by
4 the juvenile shall be offset by any amount paid by his or her
5 parent. As used in this subsection, "parent" does not include a
6 foster parent.

7 (16) If the court orders a parent to pay restitution under
8 subsection (15), the court shall take into account the parent's
9 financial resources and the burden that the payment of restitution
10 will impose, with due regard to any other moral or legal financial
11 obligations the parent may have. If a parent is required to pay
12 restitution under subsection (15), the court shall provide for
13 payment to be made in specified installments and within a specified
14 period of time.

15 (17) A parent who has been ordered to pay restitution under
16 subsection (15) may petition the court for a modification of the
17 amount of restitution owed by the parent or for a cancellation of
18 any unpaid portion of the parent's obligation. The court shall
19 cancel all or part of the parent's obligation due if the court
20 determines that payment of the amount due will impose a manifest
21 hardship on the parent and if the court also determines that
22 modifying the method of payment will not impose a manifest hardship
23 on the victim.

24 (18) In each case in which payment of restitution is ordered
25 as a condition of probation, the court ~~may~~ **SHALL** order any
26 employed juvenile to execute a wage assignment to pay the
27 restitution. The juvenile caseworker or probation officer assigned

1 to the case shall review the case not less than twice yearly to
2 ensure that restitution is being paid as ordered. If the
3 restitution was ordered to be made within a specific period of
4 time, the juvenile caseworker or probation officer assigned to the
5 case shall review the case at the end of the specific period of
6 time to determine if the restitution has been paid in full. The
7 final review shall be conducted not less than 60 days before the
8 probationary period expires. If the juvenile caseworker or
9 probation officer determines at any review the restitution is not
10 being paid as ordered, the juvenile caseworker or probation officer
11 shall file a written report of the violation with the court on a
12 form prescribed by the state court administrative office or shall
13 petition the court for a probation violation. The report or
14 petition shall include a statement of the amount of the arrearage,
15 and any reasons for the arrearage known by the juvenile caseworker
16 or probation officer. The juvenile caseworker or probation officer
17 shall immediately provide a copy of the report or petition to the
18 prosecuting attorney. If a petition or motion is filed or other
19 proceedings are initiated to enforce payment of restitution and the
20 court determines that restitution is not being paid or has not been
21 paid as ordered by the court, the court shall promptly take action
22 necessary to compel compliance.

23 (19) If the court determines that an individual who is ordered
24 to pay restitution under this section is remanded to the
25 jurisdiction of the department of corrections, the court shall
26 provide a copy of the order of restitution to the department of
27 corrections when the court determines that the individual is

1 remanded to the department's jurisdiction.

2 (20) The court shall not impose a fee on a victim, victim's
3 estate, or prosecuting attorney for enforcing an order of
4 restitution.

5 (21) If a person or entity entitled to restitution **UNDER THIS**
6 **SECTION** cannot be located, ~~or~~ refuses to claim ~~that~~ **THE**
7 restitution within 2 years after the date on which he or she could
8 have claimed the restitution, **REFUSES TO ACCEPT THE RESTITUTION, OR**
9 **CANNOT CLAIM THE RESTITUTION BECAUSE OF A PROVISION OF LAW,**
10 **INCLUDING A PROVISION ABOLISHING TORT LIABILITY,** the restitution
11 ~~paid~~ to **WHICH** that person or entity **IS OR WOULD OTHERWISE BE**
12 **ENTITLED** shall be deposited in the crime victim's rights fund
13 created under section 4 of 1989 PA 196, MCL 780.904, or its
14 successor fund. However, a person or entity entitled to that
15 restitution may claim that restitution any time by applying to the
16 court that originally ordered and collected it. The court shall
17 notify the crime victim services commission of the application and
18 the commission shall approve a reduction in the court's revenue
19 transmittal to the crime victim rights fund equal to the
20 restitution owed to the person or entity. The court shall use the
21 reduction to reimburse that restitution to the person or entity.

22 **(22) A COURT THAT RECEIVES NOTICE THAT A DEFENDANT WHO HAS AN**
23 **OBLIGATION TO PAY RESTITUTION UNDER THIS SECTION HAS DECLARED**
24 **BANKRUPTCY SHALL FORWARD A COPY OF THAT NOTICE TO THE VICTIM AND TO**
25 **ANY OTHER PERSON TO WHOM THE RESTITUTION IS OWED.**

26 Sec. 44a. (1) If a juvenile is subject to any combination of
27 fines, costs, restitution, assessments, probation or parole

1 supervision fees, or other payments arising out of the same
2 criminal proceeding, money collected from that juvenile for the
3 payment of fines, costs, restitution, assessments, probation or
4 parole supervision fees, or other payments **ORDERED TO BE PAID IN**
5 **THAT PROCEEDING** shall be allocated as provided in this section.
6 **UNLESS FULL RESTITUTION AND ALL ASSESSMENTS HAVE BEEN PAID IN A**
7 **PROCEEDING, MONEY COLLECTED FOR THE PAYMENT OF FINES, COSTS,**
8 **RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE SUPERVISION FEES, OR**
9 **OTHER PAYMENTS IN THAT PROCEEDING SHALL NOT BE APPLIED TO THE**
10 **PAYMENT OF FINES, COSTS, PROBATION OR PAROLE SUPERVISION FEES, OR**
11 **OTHER PAYMENTS ORDERED IN ANOTHER CASE OR PROCEEDING.**

12 (2) Except as otherwise provided in this subsection, if a
13 juvenile is subject to payment of victim payments and any
14 combination of other fines, costs, assessments, probation or parole
15 supervision fees, or other payments, 50% of each payment collected
16 by the court from that juvenile shall be applied to payment of
17 victim payments, and the balance shall be applied to payment of
18 fines, costs, supervision fees, and other assessments or payments.
19 If any fines, costs, supervision fees, or other assessments or
20 payments remain unpaid after all of the victim payments have been
21 paid, any additional money collected shall be applied to payment of
22 those fines, costs, supervision fees, or other assessments or
23 payments. If any victim payments remain unpaid after all of the
24 fines, costs, supervision fees, or other assessments or payments
25 have been paid, any additional money collected shall be applied
26 toward payment of those victim payments.

27 (3) In cases involving prosecutions for violations of state

1 law, money allocated under subsection (2) for payment of fines,
2 costs, probation and parole supervision fees, and assessments or
3 payments other than victim payments shall be applied in the
4 following order of priority:

5 (a) Payment of the minimum state cost prescribed by section 1j
6 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
7 769.1j.

8 (b) Payment of other costs.

9 (c) Payment of fines.

10 (d) Payment of probation or parole supervision fees.

11 (e) Payment of assessments and other payments, including
12 reimbursement to third parties who reimbursed a victim for his or
13 her loss.

14 (4) In cases involving prosecutions for violations of local
15 ordinances, money allocated under subsection (2) for payment of
16 fines, costs, and assessments or payments other than victim
17 payments shall be applied in the following order of priority:

18 (a) Payment of the minimum state cost prescribed by section 1j
19 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
20 769.1j.

21 (b) Payment of fines and other costs.

22 (c) Payment of assessments and other payments.

23 (5) As used in this section, "victim payment" means
24 restitution ordered to be paid to the victim ~~—, to~~ OR the victim's
25 estate, but not to a person who reimbursed the victim for his or
26 her loss; or an assessment ordered under section 5 of 1989 PA 196,
27 MCL 780.905.

1 Sec. 46. (1) Upon the request of ~~the~~ **A** victim, ~~the~~ **A**
2 prosecuting attorney shall notify the victim **IF 1 OR MORE** of the
3 following **OCCUR**:

4 (a) ~~That the juvenile filed~~ **THE JUVENILE FILES** an appeal of
5 his or her adjudication, conviction, disposition, or sentence or
6 the prosecuting attorney ~~filed~~ **FILES** an appeal.

7 (b) ~~Whether the juvenile has been~~ **THE JUVENILE IS** ordered
8 released on bail or other recognizance pending the disposition of
9 ~~the~~ **AN** appeal. If the prosecuting attorney is notified that the
10 juvenile has been ordered released on bail or other recognizance
11 pending disposition of the appeal, the prosecuting attorney shall
12 use any means reasonably calculated to give the victim notice of
13 that order within 24 hours after the prosecuting attorney is
14 notified of the order.

15 (c) ~~The time and place of any appellate~~ **APPELLATE** court
16 ~~proceedings~~ **ORAL ARGUMENTS ARE SCHEDULED. THE PROSECUTING ATTORNEY**
17 **SHALL GIVE THE VICTIM NOTICE OF THE TIME AND PLACE** and any changes
18 in the time or place of those ~~proceedings~~ **ARGUMENTS**.

19 (d) ~~The result of the~~ **A DECISION OR ORDER IS ENTERED ON AN**
20 appeal. **THE PROSECUTING ATTORNEY SHALL GIVE THE VICTIM NOTICE OF**
21 **THE RESULTS OF THE APPEAL**. If the disposition or conviction is
22 ordered reversed, the sentence is vacated, the case is remanded for
23 a new trial, or the prosecuting attorney's appeal is denied, and if
24 the prosecuting attorney has filed the appropriate notice with the
25 appellate court, the appellate court shall expedite delivery of the
26 relevant document to the prosecuting attorney's office by any means
27 reasonably calculated to give the prosecuting attorney prompt

1 notice. The prosecuting attorney shall use any means reasonably
2 calculated to give the victim notice of that order within 24 hours
3 after the prosecuting attorney is notified of the order.

4 (2) If ~~the~~ **A** prosecuting attorney is not successful in
5 notifying the victim of an event described in subsection (1) within
6 the ~~period set forth~~ **TIME PRESCRIBED** in that subsection, the
7 prosecuting attorney shall notify the victim of that event as soon
8 as possible by any means reasonably calculated to give the victim
9 prompt actual notice.

10 (3) ~~Upon the request of the victim, the~~ **A** prosecuting
11 attorney shall provide ~~the~~ **A** victim with a brief explanation in
12 plain English of the appeal process, including the possible
13 dispositions.

14 (4) If ~~the~~ **A** case is returned to the court for further
15 proceedings or a new trial, the victim has the same rights as
16 previously requested during the proceedings that led to the appeal.

17 Sec. 47. (1) A juvenile adjudicated for an offense shall not
18 derive any profit from the sale of his or her recollections,
19 thoughts, ~~and~~ **OR** feelings with regard to the offense committed by
20 that juvenile, **OR FROM THE SALE OF THE JUVENILE'S MEMORABILIA OR**
21 **PROPERTY, THE VALUE OF WHICH HAS BEEN ENHANCED OR INCREASED BY THE**
22 **PERSON'S NOTORIETY**, until the victim receives any restitution or
23 compensation ordered for him or her against the juvenile, ~~and~~
24 expenses of detention are ~~recovered as provided in~~ **PAID UNDER**
25 subsection (3), ~~and until~~ **AND ANY BALANCE IN** the escrow account
26 created under subsection (2) is ~~terminated~~ **PAID** under subsection
27 (4).

1 (2) Upon the disposition of a juvenile offense involving a
2 victim, and after notice to ~~any interested party~~ **ALL INTERESTED**
3 **PARTIES**, an attorney for the county in which the disposition
4 occurred or the attorney general may petition the court in which
5 the disposition occurred to order that **THE** juvenile forfeit all or
6 any part of proceeds received or to be received by the juvenile —
7 or the juvenile's representatives or assignees — from contracts
8 relating to the depiction of the offense or the juvenile's
9 recollections, thoughts, or feelings about the offense, in books,
10 magazines, media entertainment, or live entertainment, ~~as provided~~
11 ~~in this section~~ **FROM THE SALE OF MEMORABILIA OF THE OFFENSE, OR**
12 **FROM THE SALE OF PROPERTY OF THE JUVENILE, THE VALUE OF WHICH HAS**
13 **BEEN ENHANCED OR INCREASED BY THE JUVENILE'S NOTORIETY ARISING FROM**
14 **THE CRIME.** The proceeds shall be held in escrow for a period of not
15 more than 5 years.

16 (3) During the existence of ~~the~~ **AN** escrow account **CREATED**
17 **UNDER SUBSECTION (2)**, proceeds in the account shall be distributed
18 in the following priority to satisfy the following:

19 (a) An order of restitution entered under ~~sections 44 and 45~~
20 **SECTION 44.**

21 (b) Any civil judgment in favor of the victim against ~~that~~
22 **THE** juvenile.

23 (c) Any reimbursement for detention ordered under section 18
24 of chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939, being~~
25 ~~section 712A.18 of the Michigan Compiled Laws~~ **THE PROBATE CODE OF**
26 **1939, 1939 PA 288, MCL 712A.18.**

27 (4) ~~The~~ **A** balance remaining in ~~the~~ **AN** escrow account

1 **CREATED UNDER SUBSECTION (2)** at the end of the escrow period shall
2 be paid to the crime victim's rights ~~assessment~~ fund **CREATED**
3 **UNDER SECTION 4 OF 1989 PA 196, MCL 780.904.**

4 Sec. 61. (1) Except as otherwise defined in this article, as
5 used in this article:

6 (a) "Serious misdemeanor" means 1 or more of the following:

7 (i) A violation of section 81 of the Michigan penal code, 1931
8 PA 328, MCL 750.81, assault and battery, including domestic
9 violence.

10 (ii) A violation of section 81a of the Michigan penal code,
11 1931 PA 328, MCL 750.81a, assault; infliction of serious injury,
12 including aggravated domestic violence.

13 (iii) A violation of section 115 of the Michigan penal code,
14 1931 PA 328, MCL 750.115, breaking and entering or illegal entry.

15 (iv) A violation of section 136b(6) of the Michigan penal code,
16 1931 PA 328, MCL 750.136b, child abuse in the fourth degree.

17 (v) A violation of section 145a of the Michigan penal code,
18 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.

19 (vi) A violation of section 234 of the Michigan penal code,
20 1931 PA 328, MCL 750.234, discharge of a firearm intentionally
21 aimed at a person.

22 (vii) A violation of section 235 of the Michigan penal code,
23 1931 PA 328, MCL 750.235, discharge of an intentionally aimed
24 firearm resulting in injury.

25 (viii) A violation of section 335a of the Michigan penal code,
26 1931 PA 328, MCL 750.335a, indecent exposure.

27 (ix) A violation of section 617a of the Michigan vehicle code,

1 1949 PA 300, MCL 257.617a, leaving the scene of a personal injury
2 accident.

3 (x) A violation of section 625 of the Michigan vehicle code,
4 1949 PA 300, MCL 257.625, operating a vehicle while under the
5 influence of or impaired by intoxicating liquor or a controlled
6 substance, or with an unlawful blood alcohol content, if the
7 violation involves an accident resulting in damage to another
8 individual's property or physical injury or death to another
9 individual.

10 (xi) Selling or furnishing alcoholic liquor to an individual
11 less than 21 years of age in violation of section 701 of the
12 Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701, if
13 the violation results in physical injury or death to any
14 individual.

15 (xii) A violation of section 411h of the Michigan penal code,
16 1931 PA 328, MCL 750.411h, stalking.

17 (xiii) A violation of section 80176(1) or (3) of the natural
18 resources and environmental protection act, 1994 PA 451, MCL
19 324.80176, operating a vessel while under the influence of or
20 impaired by intoxicating liquor or a controlled substance, or with
21 an unlawful blood alcohol content, if the violation involves an
22 accident resulting in damage to another individual's property or
23 physical injury or death to any individual.

24 (xiv) A VIOLATION OF SECTION 145 OF THE MICHIGAN PENAL CODE,
25 1931 PA 328, MCL 750.145, CONTRIBUTING TO THE NEGLECT OR
26 DELINQUENCY OF A MINOR.

27 (xv) IF THE VIOLATION RESULTS IN A MISDEMEANOR CONVICTION, A

1 VIOLATION OF SECTION 145D OF THE MICHIGAN PENAL CODE, 1931 PA 328,
2 MCL 750.145D, USING THE INTERNET OR A COMPUTER TO MAKE A PROHIBITED
3 COMMUNICATION.

4 (xvi) A VIOLATION DESCRIBED IN SECTION 601B(2) OF THE MICHIGAN
5 VEHICLE CODE, 1949 PA 300, MCL 257.601B.

6 (xvii) ~~(xiv)~~ A violation of a local ordinance substantially
7 corresponding to a violation enumerated in subparagraphs (i) to
8 ~~(xiii)~~ (xvi).

9 (xviii) ~~(xv)~~ A violation charged as a crime or serious
10 misdemeanor enumerated in subparagraphs (i) to ~~(xiv)~~ (xvii) but
11 subsequently reduced to or pleaded to as a misdemeanor. As used in
12 this subparagraph, "crime" means that term as defined in section 2.

13 (b) "Defendant" means a person charged with or convicted of
14 having committed a serious misdemeanor against a victim.

15 (c) "Final disposition" means the ultimate termination of the
16 criminal prosecution of a defendant including, but not limited to,
17 dismissal, acquittal, or imposition of a sentence by the court.

18 (d) "Person" means an individual, organization, partnership,
19 corporation, or governmental entity.

20 (e) "Prisoner" means a person who has been convicted and
21 sentenced to imprisonment for having committed a serious
22 misdemeanor against a victim.

23 (f) "Prosecuting attorney" means the prosecuting attorney for
24 a county, an assistant prosecuting attorney for a county, the
25 attorney general, the deputy attorney general, an assistant
26 attorney general, a special prosecuting attorney, or, in connection
27 with the prosecution of an ordinance violation, an attorney for the

1 political subdivision that enacted the ordinance upon which the
2 violation is based.

3 (g) "Victim" means any of the following:

4 (i) An individual who suffers direct or threatened physical,
5 financial, or emotional harm as a result of the commission of a
6 serious misdemeanor, except as provided in subparagraph (ii), (iii),
7 or (iv).

8 (ii) The following individuals other than the defendant if the
9 victim is deceased:

10 (A) The spouse of the deceased victim.

11 (B) A child of the deceased victim if the child is 18 years of
12 age or older and sub-subparagraph (A) does not apply.

13 (C) A parent of a deceased victim if sub-subparagraphs (A) and
14 (B) do not apply.

15 (D) The guardian or custodian of a child of a deceased victim
16 if the child is less than 18 years of age and sub-subparagraphs (A)
17 to (C) do not apply.

18 (E) A sibling of the deceased victim if sub-subparagraphs (A)
19 to (D) do not apply.

20 (F) A grandparent of the deceased victim if sub-subparagraphs
21 (A) to (E) do not apply.

22 (iii) A parent, guardian, or custodian of a victim who is less
23 than 18 years of age and who is neither the defendant nor
24 incarcerated, if the parent, guardian, or custodian so chooses.

25 (iv) A parent, guardian, or custodian of a victim who is so
26 mentally incapacitated that he or she cannot meaningfully
27 understand or participate in the legal process if he or she is not

1 the defendant and is not incarcerated.

2 (2) If a victim as defined in subsection (1)(g)(i) is
3 physically or emotionally unable to exercise the privileges and
4 rights under this article, the victim may designate his or her
5 spouse, child 18 years of age or older, parent, sibling, or
6 grandparent or any other person 18 years of age or older who is
7 neither the defendant nor incarcerated to act in his or her place
8 while the physical or emotional disability continues. The victim
9 shall provide the prosecuting attorney with the name of the person
10 who is to act in place of the victim. During the physical or
11 emotional disability, notices to be provided under this article to
12 the victim shall continue to be sent only to the victim.

13 (3) An individual who is charged with a serious misdemeanor, a
14 crime as defined in section 2, or an offense as defined in section
15 31 arising out of the same transaction from which the charge
16 against the defendant arose is not eligible to exercise the
17 privileges and rights established for victims under this article.

18 (4) An individual who is incarcerated is not eligible to
19 exercise the privileges and rights established for victims under
20 this article except that he or she may submit a written statement
21 to the court for consideration at sentencing.

22 Sec. 65. ~~(1)~~ Not later than 72 hours after the arrest of the
23 defendant for a serious misdemeanor, the law enforcement agency
24 having responsibility for investigating the serious misdemeanor
25 shall give to the victim notice of the availability of pretrial
26 release for the defendant, the phone number of the sheriff, and
27 notice that the victim may contact the sheriff to determine whether

1 the defendant has been released from custody. The law enforcement
2 agency having responsibility for investigating the crime shall
3 promptly notify the victim of the arrest or pretrial release of the
4 defendant, or both, if the victim requests or has requested that
5 information. If the defendant is released from custody by the
6 sheriff, the sheriff shall notify the law enforcement agency having
7 responsibility for investigating the crime.

8 ~~—— (2) If the victim submits an affidavit asserting acts or~~
9 ~~threats of physical violence or intimidation by the defendant or at~~
10 ~~the defendant's direction against the victim or the victim's~~
11 ~~immediate family, the prosecuting attorney, based on the victim's~~
12 ~~affidavit, may move that the bond or personal recognizance of a~~
13 ~~defendant be revoked.~~

14 Sec. 76. (1) ~~For purposes of~~ **AS USED IN** this section only:

15 (a) "Misdemeanor" means a violation of a law of this state or
16 a local ordinance that is punishable by imprisonment for not more
17 than 1 year or a fine that is not a civil fine, but that is not a
18 felony.

19 (b) "Victim", ~~means an individual who suffers direct or~~
20 ~~threatened physical, financial, or emotional harm as a result of~~
21 ~~the commission of a misdemeanor. For purposes of~~ **IN** subsections
22 (2), (3), (6), (8), (9), and (13) **ONLY**, ~~victim~~ includes, **IN**
23 **ADDITION TO A VICTIM AS DEFINED IN SECTION 61**, a sole
24 proprietorship, partnership, corporation, association, governmental
25 entity, or any other legal entity that suffers direct physical or
26 financial harm as a result of a misdemeanor.

27 (2) Except as provided in subsection (8), when sentencing a

1 defendant convicted of a misdemeanor, the court shall order, in
2 addition to or in lieu of any other penalty authorized by law or in
3 addition to any other penalty required by law, that the defendant
4 make full restitution to any victim of the defendant's course of
5 conduct that gives rise to the conviction or to the victim's
6 estate. **FOR AN OFFENSE THAT IS RESOLVED BY ASSIGNMENT OF THE**
7 **DEFENDANT TO YOUTHFUL TRAINEE STATUS, BY A DEFERRED OR DELAYED**
8 **SENTENCE OR ENTRY OF JUDGMENT, OR IN ANOTHER WAY THAT IS NOT AN**
9 **ACQUITTAL, CONVICTION, OR UNCONDITIONAL DISMISSAL, THE COURT SHALL**
10 **ORDER THE RESTITUTION REQUIRED UNDER THIS SECTION.**

11 (3) If a misdemeanor results in damage to or loss or
12 destruction of property of a victim of the misdemeanor or results
13 in the seizure or impoundment of property of a victim of the
14 misdemeanor, the order of restitution may require that the
15 defendant do 1 or more of the following, as applicable:

16 (a) Return the property to the owner of the property or to a
17 person designated by the owner.

18 (b) If return of the property under subdivision (a) is
19 impossible, impractical, or inadequate, pay an amount equal to the
20 greater of subparagraph (i) or (ii), less the value, determined as of
21 the date the property is returned, of that property or any part of
22 the property that is returned:

23 (i) The value of the property on the date of the damage, loss,
24 or destruction.

25 (ii) The value of the property on the date of sentencing.

26 (c) Pay the costs of the seizure or impoundment, or both.

27 (4) If a misdemeanor results in physical or psychological

1 injury to a victim, the order of restitution may require that the
2 defendant do 1 or more of the following, as applicable:

3 (a) Pay an amount equal to the reasonably determined cost of
4 medical and related professional services and devices actually
5 incurred and reasonably expected to be incurred relating to
6 physical and psychological care.

7 (b) Pay an amount equal to the reasonably determined cost of
8 physical and occupational therapy and rehabilitation actually
9 incurred and reasonably expected to be incurred.

10 (c) Reimburse the victim or the victim's estate for after-tax
11 income loss suffered by the victim as a result of the misdemeanor.

12 (d) Pay an amount equal to the reasonably determined cost of
13 psychological and medical treatment for members of the victim's
14 family actually incurred and reasonably expected to be incurred as
15 a result of the misdemeanor.

16 (e) Pay an amount equal to the reasonably determined costs of
17 homemaking and child care expenses actually incurred and reasonably
18 expected to be incurred as a result of the misdemeanor or, if
19 homemaking or child care is provided without compensation by a
20 relative, friend, or any other person, an amount equal to the costs
21 that would reasonably be incurred as a result of the misdemeanor
22 for that homemaking and child care, based on the rates in the area
23 for comparable services.

24 (f) Pay an amount equal to the cost of actual funeral and
25 related services.

26 (g) If the deceased victim could be claimed as a dependent by
27 his or her parent or guardian on the parent's or guardian's

1 federal, state, or local income tax returns, pay an amount equal to
 2 the loss of the tax deduction or tax credit. The amount of
 3 reimbursement shall be estimated for each year the victim could
 4 reasonably be claimed as a dependent.

5 (5) If a crime resulting in bodily injury also results in the
 6 death of a victim or serious impairment of a body function of a
 7 victim, the court may order up to 3 times the amount of restitution
 8 otherwise allowed under this section. As used in this subsection,
 9 "serious impairment of a body function" ~~of a victim" includes, but~~
 10 ~~is not limited to, 1 or more of the following:~~ **MEANS THAT TERM AS**
 11 **DEFINED IN SECTION 58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,**
 12 **MCL 257.58C.**

- 13 ~~—— (a) Loss of a limb or use of a limb.~~
- 14 ~~—— (b) Loss of a hand or foot or use of a hand or foot.~~
- 15 ~~—— (c) Loss of an eye or use of an eye or ear.~~
- 16 ~~—— (d) Loss or substantial impairment of a bodily function.~~
- 17 ~~—— (e) Serious visible disfigurement.~~
- 18 ~~—— (f) A comatose state that lasts for more than 3 days.~~
- 19 ~~—— (g) Measurable brain damage or mental impairment.~~
- 20 ~~—— (h) A skull fracture or other serious bone fracture.~~
- 21 ~~—— (i) Subdural hemorrhage or subdural hematoma.~~
- 22 ~~—— (j) Loss of a body organ.~~

23 (6) If the victim or victim's estate consents, the order of
 24 restitution may require that the defendant make restitution in
 25 services in lieu of money.

26 (7) If the victim is deceased, the court shall order that the
 27 restitution be made to the victim's estate.

1 (8) The court shall order restitution to the crime victim
2 services commission or to any individuals, partnerships,
3 corporations, associations, governmental entities, or other legal
4 entities that have compensated the victim or the victim's estate
5 for a loss incurred by the victim to the extent of the compensation
6 paid for that loss. The court shall also order restitution for the
7 costs of services provided to persons or entities that have
8 provided services to the victim as a result of the misdemeanor.
9 Services that are subject to restitution under this subsection
10 include, but are not limited to, shelter, food, clothing, and
11 transportation. However, an order of restitution shall require that
12 all restitution to a victim or victim's estate under the order be
13 made before any restitution to any other person or entity under
14 that order is made. The court shall not order restitution to be
15 paid to a victim or victim's estate if the victim or victim's
16 estate has received or is to receive compensation for that loss,
17 and the court shall state on the record with specificity the
18 reasons for its action.

19 (9) Any amount paid to a victim or victim's estate under an
20 order of restitution shall be set off against any amount later
21 recovered as compensatory damages by the victim or the victim's
22 estate in any federal or state civil proceeding and shall reduce
23 the amount payable to a victim or a victim's estate by an award
24 from the crime victim services commission made after an order of
25 restitution under this section.

26 (10) If not otherwise provided by the court under this
27 subsection, restitution shall be made immediately. However, the

1 court may require that the defendant make restitution under this
2 section within a specified period or in specified installments.

3 (11) If the defendant is placed on probation or the court
4 imposes a conditional sentence as provided in section 3 of chapter
5 IX of the code of criminal procedure, 1927 PA 175, MCL 769.3, any
6 restitution ordered under this section shall be a condition of that
7 probation or sentence. The court may revoke probation or impose
8 imprisonment under the conditional sentence if the defendant fails
9 to comply with the order and if the defendant has not made a good
10 faith effort to comply with the order. In determining whether to
11 revoke probation or impose imprisonment, the court shall consider
12 the defendant's employment status, earning ability, and financial
13 resources, the willfulness of the defendant's failure to pay, and
14 any other special circumstances that may have a bearing on the
15 defendant's ability to pay.

16 (12) ~~A~~ **SUBJECT TO SUBSECTION (15), A** defendant who is
17 required to pay restitution and who is not in willful default of
18 the payment of the restitution may at any time petition the
19 sentencing judge or his or her successor to modify the method of
20 payment. If the court determines that payment under the order will
21 impose a manifest hardship on the defendant or his or her immediate
22 family, and if the court also determines that modifying the method
23 of payment will not impose a manifest hardship on the victim, the
24 court may modify the method of payment.

25 (13) An order of restitution entered under this section
26 remains effective until it is satisfied in full. An order of
27 restitution is a judgment and lien against all property of the

1 defendant for the amount specified in the order of restitution. The
2 lien may be recorded as provided by law. An order of restitution
3 may be enforced by the prosecuting attorney, a victim, a victim's
4 estate, or any other person or entity named in the order to receive
5 restitution in the same manner as a judgment in a civil action or a
6 lien.

7 (14) Notwithstanding any other provision of this section, a
8 defendant shall not be imprisoned, jailed, or incarcerated for a
9 violation of probation or otherwise for failure to pay restitution
10 as ordered under this section unless the court determines that the
11 defendant has the resources to pay the ordered restitution and has
12 not made a good faith effort to do so.

13 (15) In each case in which payment of restitution is ordered
14 as a condition of probation, the court ~~may~~ **SHALL** order any
15 employed defendant to execute a wage assignment to pay the
16 restitution. The probation officer assigned to the case shall
17 review the case not less than twice yearly to ensure that
18 restitution is being paid as ordered. If the restitution was
19 ordered to be made within a specific period of time, the probation
20 officer assigned to the case shall review the case at the end of
21 the specific period of time to determine if the restitution has
22 been paid in full. The final review shall be conducted not less
23 than 60 days before the probationary period expires. If the
24 probation officer determines at any review that restitution is not
25 being paid as ordered, the probation officer shall file a written
26 report of the violation with the court on a form prescribed by the
27 state court administrative office or shall petition the court for a

1 probation violation. The report or petition shall include a
2 statement of the amount of the arrearage and any reasons for the
3 arrearage known by the probation officer. The probation officer
4 shall immediately provide a copy of the report or petition to the
5 prosecuting attorney. If a petition or motion is filed or other
6 proceedings are initiated to enforce payment of restitution and the
7 court determines that restitution is not being paid or has not been
8 paid as ordered by the court, the court shall promptly take action
9 necessary to compel compliance.

10 (16) If the court determines that a defendant who is ordered
11 to pay restitution under this section is remanded to the
12 jurisdiction of the department of corrections, the court shall
13 provide a copy of the order of restitution to the department of
14 corrections when the court determines that the defendant is
15 remanded to the department's jurisdiction.

16 (17) The court shall not impose a fee on a victim, victim's
17 estate, or prosecuting attorney for enforcing an order of
18 restitution.

19 (18) If a person or entity entitled to restitution **UNDER THIS**
20 **SECTION** cannot be located, ~~or~~ refuses to claim ~~that~~ **THE**
21 restitution within 2 years after the date on which he or she could
22 have claimed the restitution, **REFUSES TO ACCEPT THE RESTITUTION,**
23 **CANNOT CLAIM THE RESTITUTION BECAUSE OF A PROVISION OF LAW,**
24 **INCLUDING A PROVISION ABOLISHING TORT LIABILITY,** the restitution
25 ~~paid~~ to **WHICH** that person or entity **IS OR WOULD OTHERWISE BE**
26 **ENTITLED** shall be deposited in the crime victim's rights fund
27 created under section 4 of 1989 PA 196, MCL 780.904, or its

1 successor fund. However, a person or entity entitled to that
2 restitution may claim that restitution any time by applying to the
3 court that originally ordered and collected it. The court shall
4 notify the crime victim services commission of the application and
5 the commission shall approve a reduction in the court's revenue
6 transmittal to the crime victim rights fund equal to the
7 restitution owed to the person or entity. The court shall use the
8 reduction to reimburse that restitution to the person or entity.

9 **(19) A COURT THAT RECEIVES NOTICE THAT A DEFENDANT WHO HAS AN**
10 **OBLIGATION TO PAY RESTITUTION UNDER THIS SECTION HAS DECLARED**
11 **BANKRUPTCY SHALL FORWARD A COPY OF THAT NOTICE TO THE VICTIM AND TO**
12 **ANY OTHER PERSON TO WHOM THE RESTITUTION IS OWED.**

13 Sec. 76a. (1) If a person is subject to any combination of
14 fines, costs, restitution, assessments, probation or parole
15 supervision fees, or other payments arising out of the same
16 criminal proceeding, money collected from that person for the
17 payment of fines, costs, restitution, assessments, probation or
18 parole supervision fees, or other payments **ORDERED TO BE PAID IN**
19 **THAT PROCEEDING** shall be allocated as provided in this section.
20 **UNLESS FULL RESTITUTION AND ALL ASSESSMENTS HAVE BEEN PAID IN A**
21 **PROCEEDING, MONEY COLLECTED FOR THE PAYMENT OF FINES, COSTS,**
22 **RESTITUTION, ASSESSMENTS, PROBATION OR PAROLE SUPERVISION FEES, OR**
23 **OTHER PAYMENTS IN THAT PROCEEDING SHALL NOT BE APPLIED TO THE**
24 **PAYMENT OF FINES, COSTS, PROBATION OR PAROLE SUPERVISION FEES, OR**
25 **OTHER PAYMENTS ORDERED IN ANOTHER CASE OR PROCEEDING.**

26 (2) Except as otherwise provided in this subsection, if a
27 person is subject to payment of victim payments and any combination

1 of other fines, costs, assessments, probation or parole supervision
2 fees, or other payments, 50% of each payment collected by the court
3 from that person shall be applied to payment of victim payments,
4 and the balance shall be applied to payment of fines, costs,
5 supervision fees, and other assessments or payments. If any fines,
6 costs, supervision fees, or other assessments or payments remain
7 unpaid after all of the victim payments have been paid, any
8 additional money collected shall be applied to payment of those
9 fines, costs, supervision fees, or other assessments or payments.
10 If any victim payments remain unpaid after all of the fines, costs,
11 supervision fees, or other assessments or payments have been paid,
12 any additional money collected shall be applied toward payment of
13 those victim payments.

14 (3) In cases involving prosecutions for violations of state
15 law, money allocated under subsection (2) for payment of fines,
16 costs, probation and parole supervision fees, and assessments or
17 payments other than victim payments shall be applied in the
18 following order of priority:

19 (a) Payment of the minimum state cost prescribed by section 1j
20 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
21 769.1j.

22 (b) Payment of other costs.

23 (c) Payment of fines.

24 (d) Payment of probation or parole supervision fees.

25 (e) Payment of assessments and other payments, including
26 reimbursement to third parties who reimbursed a victim for his or
27 her loss.

1 (4) In cases involving prosecutions for violations of local
2 ordinances, money allocated under subsection (2) for payment of
3 fines, costs, and assessments or payments other than victim
4 payments shall be applied in the following order of priority:

5 (a) Payment of the minimum state cost prescribed by section 1j
6 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
7 769.1j.

8 (b) Payment of fines and other costs.

9 (c) Payment of assessments and other payments.

10 (5) As used in this section, "victim payment" means
11 restitution ordered to be paid to the victim ~~—, to—~~ **OR** the victim's
12 estate, but not to a person who reimbursed the victim for his or
13 her loss; or an assessment ordered under section 5 of 1989 PA 196,
14 MCL 780.905.

15 Sec. 78. (1) Upon the request of ~~the~~ **A** victim, ~~the~~ **A**
16 prosecuting attorney shall notify the victim **IF 1 OR MORE** of the
17 following **OCCUR**:

18 (a) ~~That the defendant—~~ **THE DEFENDANT FILES** an appeal of his
19 or her conviction or sentence or ~~that~~ the prosecuting attorney
20 ~~filed~~ **FILES** an appeal.

21 (b) ~~Whether the defendant has been—~~ **THE DEFENDANT IS** ordered
22 released on bail or other recognizance pending the disposition of
23 ~~the~~ **AN** appeal. If the prosecuting attorney is notified that the
24 defendant has been ordered released on bail or other recognizance
25 pending disposition of the appeal, the prosecuting attorney shall
26 use any means reasonably calculated to give the victim notice of
27 that order within 24 hours after the prosecuting attorney is

1 notified of the order.

2 (c) ~~The time and place of any appellate~~ **APPELLATE** court
3 ~~proceedings~~ **ORAL ARGUMENTS ARE SCHEDULED. THE PROSECUTING ATTORNEY**
4 **SHALL GIVE THE VICTIM NOTICE OF THE TIME AND PLACE** and any changes
5 in the time or place of those ~~proceedings~~ **ARGUMENTS**.

6 (d) ~~The result of the~~ **A DECISION OR ORDER IS ENTERED ON AN**
7 appeal. **THE PROSECUTING ATTORNEY SHALL GIVE THE VICTIM NOTICE OF**
8 **THE RESULTS OF THE APPEAL**. If the conviction is ordered reversed,
9 the sentence is vacated, the case is remanded for a new trial, or
10 the prosecuting attorney's appeal is denied, and if the prosecuting
11 attorney has filed the appropriate notice with the appellate court,
12 the appellate court shall expedite delivery of the relevant
13 document to the prosecuting attorney's office by any means
14 reasonably calculated to give the prosecuting attorney prompt
15 notice. The prosecuting attorney shall use any means reasonably
16 calculated to give the victim notice of that order within 24 hours
17 after the prosecuting attorney is notified of the order.

18 (2) If ~~the~~ **A** prosecuting attorney is not successful in
19 notifying ~~the~~ **A** victim of an event described in subsection (1)
20 within the ~~period set forth~~ **TIME PRESCRIBED** in that subsection,
21 the prosecuting attorney shall notify the victim of that event as
22 soon as possible by any means reasonably calculated to give the
23 victim prompt actual notice.

24 (3) ~~Upon the request of the victim, the~~ **A** prosecuting
25 attorney shall provide ~~the~~ **A** victim with a brief explanation in
26 plain English of the appeal process, including the possible
27 dispositions.

1 (4) If ~~the~~ **A** case is returned to the trial court for further
2 proceedings or a new trial, the victim has the same rights as
3 previously requested during the proceedings that led to the appeal.

4 Sec. 81. (1) A person convicted of a serious misdemeanor shall
5 not derive any profit from the sale of his or her recollections,
6 thoughts, ~~and~~ **OR** feelings with regard to the offense committed by
7 that person, **OR FROM THE SALE OF MEMORABILIA OR PROPERTY OF THE**
8 **PERSON**, until the victim receives any restitution or compensation
9 ordered for him or her against the defendant, ~~and~~ expenses of
10 incarceration are ~~recovered as provided in~~ **PAID UNDER** subsection
11 (3), and ~~until~~ **ANY BALANCE IN** the escrow account created under
12 subsection (2) is ~~terminated~~ **PAID** under subsection (4).

13 (2) Upon the conviction of a defendant for a serious
14 misdemeanor involving a victim, and after notice to ~~any interested~~
15 ~~party~~ **ALL INTERESTED PARTIES**, an attorney for the county in which
16 the conviction occurred or the attorney general may petition the
17 court in which the conviction occurred to order that **THE** defendant
18 forfeit all or any part of proceeds received or to be received by
19 the defendant ~~—~~ or the defendant's representatives or assignees
20 ~~—~~ from contracts relating to the depiction of the crime or the
21 defendant's recollections, thoughts, or feelings about the crime,
22 in books, magazines, media entertainment, or live entertainment,
23 ~~as provided in this section~~ **FROM THE SALE OF MEMORABILIA OF THE**
24 **CRIME, OR FROM THE SALE OF PROPERTY OF THE DEFENDANT, THE VALUE OF**
25 **WHICH HAS BEEN ENHANCED OR INCREASED BY THE DEFENDANT'S NOTORIETY**
26 **ARISING FROM THE CRIME.** The proceeds shall be held in escrow for a
27 period of not more than 5 years.

1 (3) During the existence of ~~the~~ **AN** escrow account **CREATED**
2 **UNDER SUBSECTION (2)**, proceeds in the account shall be distributed
3 in the following priority to satisfy the following:

4 (a) An order of restitution entered under section 76.

5 (b) Any civil judgment in favor of the victim against ~~that~~
6 **THE** defendant.

7 (c) Any reimbursement ordered under the prisoner reimbursement
8 to the county act, ~~Act No. 118 of the Public Acts of 1984, being~~
9 ~~sections 801.81 to 801.93 of the Michigan Compiled Laws~~ **1984 PA**
10 **118, MCL 801.81 TO 801.93**, or ordered under the state correctional
11 facility reimbursement act, ~~Act No. 253 of the Public Acts of~~
12 ~~1935, being sections 800.401 to 800.406 of the Michigan Compiled~~
13 ~~Laws~~ **1935 PA 253, MCL 800.401 TO 800.406.**

14 (4) ~~The~~ **A** balance remaining in ~~the~~ **AN** escrow account
15 **CREATED UNDER SUBSECTION (2)** at the end of the escrow period shall
16 be paid to the crime victim's rights ~~assessment~~ fund **CREATED IN**
17 **SECTION 4 OF 1989 PA 196, MCL 780.904.**