

HOUSE BILL No. 5179

July 14, 2009, Introduced by Reps. Schuitmaker, Meadows, Amash, Kandrevas, Haugh, Polidori, Scripps, Tlaib, Gregory, Gonzales and Barnett and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled "The code of criminal procedure," by amending section 14 of chapter XI (MCL 771.14), as amended by 2000 PA 279.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XI

Sec. 14. (1) Before the court sentences a person charged with a felony or a person who is a licensee or registrant under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, as described in section ~~1(11)~~ 1(14) of chapter IX, and, if directed by the court, in any other case in which a person is charged with a misdemeanor within the jurisdiction of the court, the probation officer shall inquire into the antecedents, character, and circumstances of the person, and shall report in writing to the court.

1 (2) A presentence investigation report prepared under
2 subsection (1) shall include all of the following:

3 (a) An evaluation of and a prognosis for the person's
4 adjustment in the community based on factual information contained
5 in the report.

6 (b) If requested by a victim, any written impact statement
7 submitted by the victim under the **WILLIAM VAN REGENMORTER** crime
8 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

9 (c) A specific written recommendation for disposition based on
10 the evaluation and other information as prescribed by the assistant
11 director of the department of corrections in charge of probation.

12 (d) A statement prepared by the prosecuting attorney as to
13 whether consecutive sentencing is required or authorized by law.

14 (e) For a person to be sentenced under the sentencing
15 guidelines set forth in chapter XVII, all of the following:

16 (i) For each conviction for which a consecutive sentence is
17 authorized or required, the sentence grid in part 6 of chapter XVII
18 that contains the recommended minimum sentence range.

19 (ii) Unless otherwise provided in subparagraph (i), for each
20 crime having the highest crime class, the sentence grid in part 6
21 of chapter XVII that contains the recommended minimum sentence
22 range.

23 (iii) Unless otherwise provided in subparagraph (i), the
24 computation that determines the recommended minimum sentence range
25 for the crime having the highest crime class.

26 (iv) A specific statement as to the applicability of
27 intermediate sanctions, as defined in section 31 of chapter IX.

1 (v) The recommended sentence.

2 (f) If a person is to be sentenced for a felony or for a
3 misdemeanor involving the illegal delivery, possession, or use of
4 alcohol or a controlled substance, a statement that the person is
5 licensed or registered under article 15 of the public health code,
6 1978 PA 368, MCL 333.16101 to 333.18838, if applicable.

7 (g) Diagnostic opinions that are available and not exempted
8 from disclosure under subsection (3).

9 **(H) A STATEMENT AS TO WHETHER THE PERSON HAS PROVIDED THE**
10 **IDENTIFICATION DOCUMENTS REFERENCED IN SUBSECTION (8) (B) .**

11 (3) The court may exempt from disclosure in the presentence
12 investigation report information or a diagnostic opinion that might
13 seriously disrupt a program of rehabilitation or sources of
14 information obtained on a promise of confidentiality. If a part of
15 the presentence investigation report is not disclosed, the court
16 shall state on the record the reasons for its action and inform the
17 defendant and his or her attorney that information has not been
18 disclosed. The action of the court in exempting information from
19 disclosure is subject to appellate review. Information or a
20 diagnostic opinion exempted from disclosure pursuant to this
21 subsection shall be specifically noted in the presentence
22 investigation report.

23 (4) If a prepared presentence investigation report is amended
24 or altered before sentencing by the supervisor of the probation
25 officer who prepared the report or by any other person who has the
26 authority to amend or alter a presentence investigation report, the
27 probation officer may request that the court strike his or her name

1 from the report and the court shall comply with that request.

2 (5) The court shall permit the prosecutor, the defendant's
3 attorney, and the defendant to review the presentence investigation
4 report before sentencing.

5 (6) At the time of sentencing, either party may challenge, on
6 the record, the accuracy or relevancy of any information contained
7 in the presentence investigation report. The court may order an
8 adjournment to permit the parties to prepare a challenge or a
9 response to a challenge. If the court finds on the record that the
10 challenged information is inaccurate or irrelevant, that finding
11 shall be made a part of the record, the presentence investigation
12 report shall be amended, and the inaccurate or irrelevant
13 information shall be stricken accordingly before the report is
14 transmitted to the department of corrections.

15 (7) On appeal, the defendant's attorney, or the defendant if
16 proceeding pro se, shall be provided with a copy of the presentence
17 investigation report and any attachments to the report with the
18 exception of any information exempted from disclosure by the court
19 under subsection (3).

20 (8) If the person is committed to a state ~~penal institution, a~~
21 **CORRECTIONAL FACILITY, BOTH OF THE FOLLOWING APPLY:**

22 (A) A copy or amended copy of the presentence investigation
23 report and, if a psychiatric examination of the person has been
24 made for the court, a copy of the psychiatric report shall
25 accompany the commitment papers.

26 (B) **THE PERSON SHALL BE PROVIDED A WRITTEN FORM THAT PROVIDES**
27 **AN EXPLANATION OF THE IMPORTANCE OF OBTAINING AN OPERATOR'S LICENSE**

1 OR STATE PERSONAL IDENTIFICATION CARD UPON RELEASE FROM
2 INCARCERATION AND LISTS THE PERSONAL IDENTIFICATION DOCUMENTS
3 DESCRIBED IN SECTION 34B OF THE CORRECTIONS CODE OF 1953, 1953 PA
4 232, MCL 791.234B, NECESSARY FOR OBTAINING AN OPERATOR'S LICENSE OR
5 STATE PERSONAL IDENTIFICATION CARD. THE FORM ALSO SHALL CONTAIN A
6 REQUEST THAT THE PERSON OBTAIN AND PROVIDE THOSE DOCUMENTS TO THE
7 DEPARTMENT OF CORRECTIONS. THE FORM ALSO SHALL STATE THAT THE
8 DEPARTMENT OF CORRECTIONS WILL RETAIN IN THE FILE MAINTAINED FOR
9 THE PERSON ANY IDENTIFICATION DOCUMENTS PROVIDED BY THE PERSON
10 UNTIL HE OR SHE IS RELEASED FROM SECURE CONFINEMENT. ANY
11 IDENTIFICATION DOCUMENTS PREVIOUSLY PROVIDED BY THE PERSON SHALL
12 ACCOMPANY THE COMMITMENT PAPERS.

13 (9) If the person is sentenced by fine or imprisonment or
14 placed on probation or other disposition of his or her case is made
15 by the court, a copy or amended copy of the presentence
16 investigation report, including a psychiatric examination report
17 made in the case, shall be filed with the department of
18 corrections.

19 (10) ~~(9)~~—A prisoner under the jurisdiction of the department
20 of corrections shall be provided with a copy of any presentence
21 investigation report in the department's possession about that
22 prisoner, except for information exempted from disclosure under
23 subsection (3), not less than 30 days before a parole interview is
24 conducted under section 35 of 1953 PA 232, MCL 791.235.

25 Enacting section 1. This amendatory act does not take effect
26 unless all of the following bills of the 95th Legislature are
27 enacted into law:

1 (a) Senate Bill No.____ or House Bill No.____ (request no.
2 00974'09).

3 (b) Senate Bill No.____ or House Bill No.____ (request no.
4 00974'09 a).

5 (c) Senate Bill No.____ or House Bill No.____ (request no.
6 00974'09 b).