

HOUSE BILL No. 4077

January 13, 2011, Introduced by Reps. Glardon, O'Brien, Outman, Shaughnessy, McMillin, Genetski, Kowall, Shirkey, Lori, Daley and Lund 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
2010 PA 247.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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(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

1 writing to the court.

2 (2) A presentence investigation report prepared under
3 subsection (1) shall not include any address or telephone number
4 for the home, workplace, school, or place of worship of any victim
5 or witness, or a family member of any victim or witness, unless an
6 address is used to identify the place of the crime or to impose
7 conditions of release from custody that are necessary for the
8 protection of a named individual. Upon request, any other address
9 or telephone number that would reveal the location of a victim or
10 witness or a family member of a victim or witness shall be exempted
11 from disclosure unless an address is used to identify the place of
12 the crime or to impose conditions of release from custody that are
13 necessary for the protection of a named individual. A presentence
14 investigation report prepared under subsection (1) shall include
15 all of the following:

16 (a) An evaluation of and a prognosis for the person's
17 adjustment in the community based on factual information contained
18 in the report.

19 (b) If requested by a victim, any written impact statement
20 submitted by the victim under the William Van Regenmorter crime
21 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

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

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

27 (e) For a person to be sentenced under the sentencing

1 guidelines set forth in chapter XVII, all of the following:

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

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

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

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

14 (v) The recommended sentence.

15 (f) If a person is to be sentenced for a felony or for a
16 misdemeanor involving the illegal delivery, possession, or use of
17 alcohol or a controlled substance, a statement that the person is
18 licensed or registered under article 15 of the public health code,
19 1978 PA 368, MCL 333.16101 to 333.18838, if applicable.

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

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

24 (3) The court may exempt from disclosure in the presentence
25 investigation report information or a diagnostic opinion that might
26 seriously disrupt a program of rehabilitation or sources of
27 information obtained on a promise of confidentiality. If a part of

1 the presentence investigation report is not disclosed, the court
2 shall state on the record the reasons for its action and inform the
3 defendant and his or her attorney that information has not been
4 disclosed. The action of the court in exempting information from
5 disclosure is subject to appellate review. Information or a
6 diagnostic opinion exempted from disclosure under this subsection
7 shall be specifically noted in the presentence investigation
8 report.

9 (4) If a prepared presentence investigation report is amended
10 or altered before sentencing by the supervisor of the probation
11 officer who prepared the report or by any other person who has the
12 authority to amend or alter a presentence investigation report, the
13 probation officer may request that the court strike his or her name
14 from the report and the court shall comply with that request.

15 (5) The court shall permit the prosecutor, the defendant's
16 attorney, and the defendant to review the presentence investigation
17 report before sentencing.

18 (6) At the time of sentencing, either party may challenge, on
19 the record, the accuracy or relevancy of any information contained
20 in the presentence investigation report. The court may order an
21 adjournment to permit the parties to prepare a challenge or a
22 response to a challenge. If the court finds on the record that the
23 challenged information is inaccurate or irrelevant, that finding
24 shall be made a part of the record, the presentence investigation
25 report shall be amended, and the inaccurate or irrelevant
26 information shall be stricken accordingly before the report is
27 transmitted to the department of corrections.

1 (7) A copy of the report described under subsection (5) and
2 the amended report described under subsection (6) shall be provided
3 to the prosecutor and the defendant's attorney or the defendant if
4 he or she is not represented by an attorney. The copy of the report
5 described under subsection (5) shall be provided not less than 2
6 business days before sentencing unless that period is waived by the
7 defendant. The prosecutor and the defendant's attorney or the
8 defendant if he or she is not represented by an attorney have the
9 right to retain a copy of the report and the amended report
10 provided under this subsection.

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

16 (9) If the person is committed to a state ~~penal institution, a~~
17 **CORRECTIONAL FACILITY, BOTH OF THE FOLLOWING APPLY:**

18 **(A)** A copy or amended copy of the presentence investigation
19 report and, if a psychiatric examination of the person has been
20 made for the court, a copy of the psychiatric report shall
21 accompany the commitment papers. If the person is sentenced by fine
22 or imprisonment or placed on probation or other disposition of his
23 or her case is made by the court, a copy or amended copy of the
24 presentence investigation report, including a psychiatric
25 examination report made in the case, shall be filed with the
26 department of corrections.

27 **(B) THE PERSON SHALL BE PROVIDED A WRITTEN FORM THAT PROVIDES**

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

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

21 Enacting section 1. This amendatory act does not take effect
22 unless all of the following bills of the 96th Legislature are
23 enacted into law:

24 (a) Senate Bill No.____ or House Bill No. 4074(request no.
25 00525'11 *).

26 (b) Senate Bill No.____ or House Bill No. 4075(request no.
27 00525'11 a *).

1 (c) Senate Bill No. _____ or House Bill No. 4076 (request no.
2 00525'11 b *).