

HOUSE BILL No. 4185

February 1, 2011, Introduced by Reps. Oakes, Horn, Bledsoe, Irwin, Santana, Constan, Cavanagh and Olumba 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

1
2 Sec. 14. (1) Before the court sentences a person charged with
3 a felony or a person who is a licensee or registrant under article
4 15 of the public health code, 1978 PA 368, MCL 333.16101 to
5 333.18838, as described in section 1(14) of chapter IX, and, if
6 directed by the court, in any other case in which a person is
7 charged with a misdemeanor within the jurisdiction of the court,
8 the probation officer shall inquire into the antecedents,
9 character, and circumstances of the person, and shall report in
10 writing to the court.

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

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

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

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

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

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

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

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

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

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

13 (v) The recommended sentence.

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

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

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

23 (3) The court may exempt from disclosure in the presentence
24 investigation report information or a diagnostic opinion that might
25 seriously disrupt a program of rehabilitation or sources of
26 information obtained on a promise of confidentiality. If a part of
27 the presentence investigation report is not disclosed, the court

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

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

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

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

27 (7) A copy of the report described under subsection (5) and

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

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

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

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

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

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

23 (a) Senate Bill No.____ or House Bill No. 4182(request no.
24 00820'11).

25 (b) Senate Bill No.____ or House Bill No. 4183(request no.
26 00820'11 a).

27 (c) Senate Bill No.____ or House Bill No. 4184(request no.

1 00820'11 b).

2 (d) Senate Bill No. _____ or House Bill No. 4186 (request no.

3 00820'11 d).