

HOUSE BILL No. 5530

May 6, 2014, Introduced by Rep. Poleski and referred to the Committee on Military and Veterans Affairs.

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 2012 PA 27.

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 (9)(b).

23 **(I) A STATEMENT AS TO WHETHER THE PERSON IS DETERMINED TO BE A**
24 **VETERAN OF THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS,**
25 **OR COAST GUARD, INCLUDING THEIR RESERVE COMPONENTS, OR THE ARMY**
26 **NATIONAL GUARD OR AIR NATIONAL GUARD OF THIS STATE OR OF ANOTHER**
27 **STATE. IF THE PERSON IS DETERMINED TO BE A VETERAN UNDER THIS**

1 SUBDIVISION, THE DEPARTMENT OF CORRECTIONS SHALL FORWARD THAT
2 INFORMATION TO THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
3 TOGETHER WITH INFORMATION REGARDING THE INDIVIDUAL'S EARLIEST DATE
4 OF RELEASE, IF APPLICABLE.

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

17 (4) If a prepared presentence investigation report is amended
18 or altered before sentencing by the supervisor of the probation
19 officer who prepared the report or by any other person who has the
20 authority to amend or alter a presentence investigation report, the
21 probation officer may request that the court strike his or her name
22 from the report and the court shall comply with that request.

23 (5) The court shall permit the prosecutor, the defendant's
24 attorney, and the defendant to review the presentence investigation
25 report before sentencing.

26 (6) At the time of sentencing, either party may challenge, on
27 the record, the accuracy or relevancy of any information contained

1 in the presentence investigation report. The court may order an
2 adjournment to permit the parties to prepare a challenge or a
3 response to a challenge. If the court finds on the record that the
4 challenged information is inaccurate or irrelevant, that finding
5 shall be made a part of the record, the presentence investigation
6 report shall be amended, and the inaccurate or irrelevant
7 information shall be stricken accordingly before the report is
8 transmitted to the department of corrections.

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

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

24 (9) If the person is committed to a state correctional
25 facility, both of the following apply:

26 (a) A copy or amended copy of the presentence investigation
27 report and, if a psychiatric examination of the person has been

1 made for the court, a copy of the psychiatric report shall
2 accompany the commitment papers. If the person is sentenced by fine
3 or imprisonment or placed on probation or other disposition of his
4 or her case is made by the court, a copy or amended copy of the
5 presentence investigation report, including a psychiatric
6 examination report made in the case, shall be filed with the
7 department of corrections.

8 (b) The person shall be provided notification that provides an
9 explanation of the importance of obtaining an operator's license or
10 state personal identification card upon release from incarceration
11 and lists the personal identification documents described in
12 section 34c of the corrections code of 1953, 1953 PA 232, MCL
13 791.234c, necessary for obtaining an operator's license or state
14 personal identification card. The notification also shall contain a
15 request that the person obtain and provide those documents to the
16 department of corrections. The notification also shall state that
17 the department of corrections will retain in the file maintained
18 for the person any identification documents provided by the person
19 until he or she is released from secure confinement. Any
20 identification documents previously provided by the person shall
21 accompany the commitment papers.

22 (10) A prisoner under the jurisdiction of the department of
23 corrections shall be provided with a copy of any presentence
24 investigation report in the department's possession about that
25 prisoner, except for information exempted from disclosure under
26 subsection (3), not less than 30 days before a parole interview is
27 conducted under section 35 of the corrections code of 1953, 1953 PA

1 232, MCL 791.235.