

SENATE BILL No. 34

January 24, 2007, Introduced by Senator SWITALSKI 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:

CHAPTER XI

Sec. 14. (1) Before the court sentences a person charged with a felony **OTHER THAN A VIOLATION OF SECTION 165 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.165**, 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

1 jurisdiction of the court, the probation officer shall inquire into
2 the antecedents, character, and circumstances of the person, and
3 shall report in writing to the court.

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

6 (a) An evaluation of and a prognosis for the person's
7 adjustment in the community based on factual information contained
8 in the report.

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

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

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

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

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

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

26 (iii) Unless otherwise provided in subparagraph (i), the
27 computation that determines the recommended minimum sentence range

1 for the crime having the highest crime class.

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

4 (v) The recommended sentence.

5 (f) If a person is to be sentenced for a felony or for a
6 misdemeanor involving the illegal delivery, possession, or use of
7 alcohol or a controlled substance, a statement that the person is
8 licensed or registered under article 15 of the public health code,
9 1978 PA 368, MCL 333.16101 to 333.18838, if applicable.

10 (g) Diagnostic opinions that are available and not ~~exempted~~
11 **EXEMPT** from disclosure under subsection (3).

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

24 (4) If a prepared presentence investigation report is amended
25 or altered before sentencing by the supervisor of the probation
26 officer who prepared the report or by any other person who has the
27 authority to amend or alter a presentence investigation report, the

1 probation officer may request that the court strike his or her name
2 from the report and the court shall comply with that request.

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

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

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

21 (8) If the person is committed to a state penal institution, a
22 copy or amended copy of the presentence investigation report and,
23 if a psychiatric examination of the person has been made for the
24 court, a copy of the psychiatric report shall accompany the
25 commitment papers. If the person is sentenced by fine or
26 imprisonment or placed on probation or other disposition of his or
27 her case is made by the court, a copy or amended copy of the

1 presentence investigation report, including a psychiatric
2 examination report made in the case, shall be filed with the
3 department of corrections.

4 (9) A prisoner under the jurisdiction of the department of
5 corrections shall be provided with a copy of any presentence
6 investigation report in the department's possession about that
7 prisoner, except for information exempted from disclosure under
8 subsection (3), not less than 30 days before a parole interview is
9 conducted under section 35 of **THE CORRECTIONS CODE OF 1953**, 1953 PA
10 232, MCL 791.235.