

Legislative Analysis



PRESENTENCE INVESTIGATION REPORTS

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House Bills 6389 & 6390

Sponsor: Rep. Ellen Cogen Lipton

Committee: Judiciary

Complete to 9-8-10

A SUMMARY OF HOUSE BILLS 6389 AND 6390 AS INTRODUCED 8-24-10

BRIEF BACKGROUND:

A proposed order by the Michigan Supreme Court to amend court rules scheduled to take effect at the end of the year would allow, among other things, a copy of a defendant's presentence investigation report (PSI) to be retained, for their files, by the prosecutor and the defendant's attorney, or the defendant if not represented by an attorney. However, it has been noted that amendment of the existing court rules by adoption of the order would place the court rules at odds with current statutory provisions that restrict dissemination of PSIs so to ensure confidentiality of the reports.

CONTENT:

The bills would amend provisions in different acts relating to the dissemination of presentence investigation reports. The bills are tie-barred to each other, meaning that neither bill could take effect unless both are enacted into law.

House Bill 6390 would amend the Corrections Code (MCL 791.229). Currently, the act specifies that all records and reports of investigations made by a probation officer, and all case histories of probationers, are privileged or confidential communications and not open to public inspections. Access is given to judges and probation officers, and the attorney general, auditor general, and law enforcement agencies must also be permitted to access these reports. Under the bill, the restricted access would apply except as otherwise permitted by law.

House Bill 6389 would amend the Code of Criminal Procedure (MCL 771.14). Currently, the court must permit the prosecutor, the defendant's attorney, and the defendant to review the presentence investigation report before sentencing. The bill would add that the court must also permit these individuals to receive a copy of the report as prescribed.

Under the bill, a copy of the PSI and, if amended or corrected by either party, any amended report would have to be provided to the prosecutor, the defendant, and the defendant's attorney. The PSI would have to be provided at least two days before sentencing unless the two-day period was waived by the defendant. The prosecutor, the

defendant, and the defendant's attorney would have the right to retain the copy of the report and amended report.

FISCAL IMPACT:

The bills would require copies of all pre-sentence investigation reports and amended reports to be provided to the prosecutor, defendant, and defendant's attorney involved in a case at least two days before sentencing unless the two-day period is waived by the defendant. The bills would likely increase state costs related to the printing and distribution of these reports. Information is not yet available to estimate the magnitude of these costs.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.