

Act No. 247
Public Acts of 2010
Approved by the Governor
December 14, 2010
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**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Rep. Lipton

ENROLLED HOUSE BILL No. 6389

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," 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 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 writing to the court.

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

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

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

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

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

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

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

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

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

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

(v) The recommended sentence.

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

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

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

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

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

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

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

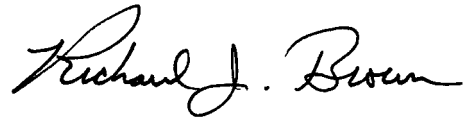
(8) On appeal, the defendant's attorney, or the defendant if proceeding pro se, shall be provided with a copy of the presentence investigation report and any attachments to the report with the exception of any information exempted from disclosure by the court under subsection (3).

(9) If the person is committed to a state penal institution, a copy or amended copy of the presentence investigation report and, if a psychiatric examination of the person has been made for the court, a copy of the psychiatric report shall accompany the commitment papers. If the person is sentenced by fine or imprisonment or placed on probation or other disposition of his or her case is made by the court, a copy or amended copy of the presentence investigation report, including a psychiatric examination report made in the case, shall be filed with the department of corrections.

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

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1491 of the 95th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: Senate Bill No. 1491, referred to in enacting section 1, was filed with the Secretary of State December 14, 2010, and became 2010 PA 248, Imd. Eff. Dec. 14, 2010.