

SUBSTITUTE FOR
HOUSE BILL NO. 6389

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:

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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(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 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.

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 (3) The court may exempt from disclosure in the presentence
22 investigation report information or a diagnostic opinion that might
23 seriously disrupt a program of rehabilitation or sources of
24 information obtained on a promise of confidentiality. If a part of
25 the presentence investigation report is not disclosed, the court
26 shall state on the record the reasons for its action and inform the
27 defendant and his or her attorney that information has not been

1 disclosed. The action of the court in exempting information from
2 disclosure is subject to appellate review. Information or a
3 diagnostic opinion exempted from disclosure ~~pursuant to~~ **UNDER** this
4 subsection shall be specifically noted in the presentence
5 investigation report.

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

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

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

25 **(7) A COPY OF THE REPORT DESCRIBED UNDER SUBSECTION (5) AND**
26 **THE AMENDED REPORT DESCRIBED UNDER SUBSECTION (6) SHALL BE PROVIDED**
27 **TO THE PROSECUTOR AND THE DEFENDANT'S ATTORNEY OR THE DEFENDANT IF**

House Bill No. 6389 (H-1) as amended September 16, 2010

1 HE OR SHE IS NOT REPRESENTED BY AN ATTORNEY. THE COPY OF THE REPORT
2 DESCRIBED UNDER SUBSECTION (5) SHALL BE PROVIDED NOT LESS THAN 2
3 BUSINESS DAYS BEFORE SENTENCING UNLESS THAT PERIOD IS WAIVED BY THE
4 DEFENDANT. [THE PROSECUTOR AND THE DEFENDANT'S ATTORNEY OR THE DEFENDANT
5 IF HE OR SHE IS NOT REPRESENTED BY AN ATTORNEY] HAVE THE RIGHT TO RETAIN
6 A COPY OF THE REPORT AND THE
7 AMENDED REPORT PROVIDED UNDER THIS SUBSECTION.

8 (8) ~~(7)~~—On appeal, the defendant's attorney, or the defendant
9 if proceeding pro se, shall be provided with a copy of the
10 presentence investigation report and any attachments to the report
11 with the exception of any information exempted from disclosure by
12 the court under subsection (3).

13 (9) ~~(8)~~—If the person is committed to a state penal
14 institution, a copy or amended copy of the presentence
15 investigation report and, if a psychiatric examination of the
16 person has been made for the court, a copy of the psychiatric
17 report shall accompany the commitment papers. If the person is
18 sentenced by fine or imprisonment or placed on probation or other
19 disposition of his or her case is made by the court, a copy or
20 amended copy of the presentence investigation report, including a
21 psychiatric examination report made in the case, shall be filed
22 with the department of corrections.

23 (10) ~~(9)~~—A prisoner under the jurisdiction of the department
24 of corrections shall be provided with a copy of any presentence
25 investigation report in the department's possession about that
26 prisoner, except for information exempted from disclosure under
27 subsection (3), not less than 30 days before a parole interview is
conducted under section 35 of **THE CORRECTIONS CODE OF 1953**, 1953 PA

House Bill No. 6389 as amended December 1, 2010

1 232, MCL 791.235.

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